

EXHIBIT A

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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4 MARILYN GAYE PIETY FOLEY : CIVIL ACTION NO.
5 v. : 22-1777
6 DREXEL UNIVERSITY : JURY TRIAL
7 : DAY ONE
8 :
9 :

10 James A. Byrne U.S. Courthouse
11 601 Market Street
12 Philadelphia, PA 19106
13 January 27, 2025
14 Commencing at 9:00

15
16 BEFORE THE HONORABLE WENDY BEETLESTONE
17 AND JURY

18
19 APPEARANCES:

20 FOR THE JOHN F. FOLEY, III
21 PLAINTIFF: BY: J.F. FOLEY, P.C., ESQUIRE
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26 Proceedings taken stenographically and prepared utilizing
27 computer-aided transcription

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1 (THE DEPUTY CLERK OPENS COURT)

09:05:13 2 THE COURT: Good morning. Have a seat.

09:05:17 3 This is Foley versus Drexel University, 22-01777. I
09:05:24 4 understand that the parties have some things that they want to
09:05:27 5 put on the record. If we could first just introduce the
09:05:31 6 parties and the folks here in the courtroom.

09:05:34 7 MR. FOLEY: My name is Brian Foley. I am attorney for
09:05:37 8 the plaintiff Marilyn Gaye Piety Foley who will go by her
09:05:44 9 professional name MG Piety, Marilyn Piety, Professor Piety.

09:05:51 10 MS. FOLEY: I am the plaintiff, Marilyn Gaye Piety
09:05:55 11 Foley.

09:05:56 12 THE COURT: Thank you.

09:05:57 13 MS. GREENSPAN: Good morning, Your Honor. Leslie
09:05:59 14 Greenspan on behalf of the defendant, Drexel University. I
09:06:02 15 will let my team introduce themselves.

09:06:05 16 MR. KURTZ: Roger Kurtz. John Roger Kurtz. I go by
09:06:10 17 Roger. And I am a professor of English and head of the
09:06:13 18 department of English and Philosophy at Drexel University.

09:06:13 19 THE COURT: Thank you.

09:06:19 20 MR. LEE: Good morning, Your Honor. JuHwon Lee. I'm
09:06:19 21 associate general counsel of Drexel University and chief of
09:06:20 22 litigation fund. I'm here with the client.

09:06:25 23 THE COURT: Great. Thank you very much.

09:06:27 24 MS. LOPEZ: Good morning. My name is Holly Lopez. I
09:06:30 25 am Ms. Greenspan's paralegal.

09:06:30 1 THE COURT: Okay. What is it that we want to put on
09:06:30 2 the record?

09:06:30 3 Here is our court reporter.

09:06:30 4 THE COURT REPORTER: Kim Haley.

09:06:39 5 MS. GREENSPAN: Your Honor, would you prefer that I be
09:06:42 6 at the podium?

09:06:43 7 THE COURT: Wherever you want to be right now.

09:06:43 8 MS. GREENSPAN: Your Honor, with respect to the
09:06:46 9 verdict sheet, we except the verdict sheet that the Court
09:06:49 10 provided at the final pretrial conference on Friday.

09:06:53 11 We just would like to make a record on just a few
09:06:56 12 points of it.

09:06:57 13 We object specifically to -- again, just for purposes
09:07:01 14 of the record, in question number two the Court directing the
09:07:06 15 jury that they must select at least one person as a comparator,
09:07:14 16 we accept the Court's decision to enter judgment on liability
09:07:17 17 from September 23rd, 2024. But I note for the record that
09:07:23 18 there was no trial at that time. There was no actual finding
09:07:29 19 of violation other than as a sanction. It was a sanction that
09:07:34 20 Your Honor entered.

09:07:36 21 We have made a record of our objections of that entry
09:07:39 22 of judgment in our two motions for reconsideration which were
09:07:43 23 filed on September 30th, 2024, and January 14th, 2025. Those
09:07:48 24 are docket entries 225 and 236.

09:07:54 25 By the Court instructing the jury that they must

09:07:57 1 select at least one male comparator on the verdict sheet and in
09:08:01 2 the jury charges it -- we submit it remains the province of the
09:08:07 3 jury that it creates a fiction that there was a trial, that
09:08:10 4 there was a factual finding, that the plaintiff had established
09:08:14 5 her case by proving that there was at least one male comparator
09:08:18 6 for equal pay purposes.

09:08:21 7 We submit the jury should be able to decide that there
09:08:24 8 are no comparators and that plaintiff is entitled to no
09:08:28 9 damages.

09:08:29 10 To the extent Drexel agrees to the verdict sheet, jury
09:08:34 11 instructions, or any of the other documents in this case, we
09:08:37 12 just want to make clear for the record, behind the scenes,
09:08:41 13 obviously not in front of the jury, that this should not be
09:08:44 14 construed as any sort of admission, concession or waiver of our
09:08:49 15 challenge of the Court's entry of the judgment on liability.

09:08:54 16 Your Honor, I also just want to revisit very briefly
09:08:59 17 if I may --

09:08:59 18 THE COURT: Let me talk about that one first. You can
09:08:59 19 go to the next one later.

09:09:03 20 I am very concerned, Miss Greenspan, that you have not
09:09:06 21 been adequately explaining to your clients what exactly
09:09:09 22 happened prior to -- you can have a seat if you wish -- prior
09:09:13 23 to the sanction.

09:09:14 24 The sanction was because there were numerous discovery
09:09:20 25 defalcations on specific issues by your clients -- the sanction

09:09:24 1 was that liability was found against your client.

09:09:29 2 And as I told you in the final pretrial, there was a
09:09:33 3 liability determination. Understand that. There was a
09:09:37 4 liability determination.

09:09:40 5 What that means, if you look at the requirements for
09:09:45 6 proving the Equal Protection -- the Equal Pay Act claim, you
09:09:51 7 have to have an employee of the opposite sex, they were paid
09:09:54 8 differently for performing equal work of substantially equal
09:09:58 9 skill effort and responsibility under similar working
09:10:03 10 conditions.

09:10:03 11 That was proved. That is what the sanction is. The
09:10:07 12 sanction wasn't wrap on the knuckles you naughty defendants.
09:10:07 13 It was that is a sanction and that has been proved.

09:10:17 14 And I say this to you because perhaps Miss Greenspan
09:10:21 15 has not been clearly stating what I said and how judicial anger
09:10:29 16 is different than general anger.

09:10:34 17 But it was because of your actions, your being the
09:10:39 18 defendant's actions in the discovery defalcations that that
09:10:46 19 determination was made.

09:10:47 20 In addition, because liability has available to it in
09:10:51 21 this context affirmative defenses, the finding of liability was
09:10:58 22 also a determination that those affirmative defenses, had they
09:11:04 23 been put on, are no longer available, so therefore it is no
09:11:09 24 longer available to Drexel to claim that the differential was
09:11:15 25 because of a bona fide seniority system, because of a merit

09:11:20 1 system, because of a system which measures earnings by quantity
09:11:26 2 or quality of production or differential based on any other
09:11:27 3 factor other than sex.

09:11:29 4 That is what I told the parties on Friday. And I had
09:11:32 5 thought that Miss Greenspan understood it. And she said that
09:11:36 6 she's saying it for the record but what she is saying on the
09:11:39 7 record is not what has happened in this case.

09:11:42 8 We went further during the final pretrial conference
09:11:48 9 to discuss what that meant for the comparator issue and also
09:11:55 10 for the willful issue. And I determined that there was room to
09:12:01 11 argue that comparator information should be available, one for
09:12:07 12 damages and one also for the willful determination.

09:12:12 13 With respect to damages, I assumed, obviously I do not
09:12:15 14 know because I haven't seen the evidence, that there were
09:12:19 15 differentials between the various comparators that had been
09:12:24 16 identified. And those comparators were Catudal, Astro, Kurtz,
09:12:31 17 Porter, Smith, Warnock and Greenberg.

09:12:32 18 The argument that Miss Greenspan made was that there
09:12:37 19 was some information with respect to those differentials that
09:12:40 20 would go to willfulness and also to damages. I accepted that.
09:12:44 21 So that is why we are having testimony with respect to those
09:12:50 22 individuals at trial, only for the willfulness issue and only
09:12:56 23 because those differentials may play into the willfulness
09:13:01 24 issues, not because there may be an issue that none of them are
09:13:07 25 comparators.

09:13:08 1 As I said earlier, the liability determination that
09:13:11 2 was a sanction on Drexel for failing to abide by I think it was
09:13:17 3 3 judicial orders precluded any determination that there was --
09:13:24 4 that there were no comparators.

09:13:27 5 There is at least one comparator. The question here,
09:13:31 6 at least goes to damages, and I don't know how you worked it
09:13:35 7 out over the weekend, but that is the purpose of the testimony.

09:13:38 8 So I hope -- we will get to the witness that you told
09:13:42 9 me may not be here. I hope that these defalcations of Drexel
09:13:46 10 does not continue throughout this trial.

09:13:49 11 I cannot tell you how astonished I have been at some
09:13:53 12 of the positions that Miss Greenspan has taken.

09:13:56 13 And I'm assuming she has taken them because in-house
09:14:00 14 counsel or someone else at Drexel has told her to do that.

09:14:04 15 What's next?

09:14:05 16 MS. GREENSPAN: Your Honor, again I am not here to the
09:14:09 17 relitigate or challenge that.

09:14:11 18 THE COURT: We're over it. We're done with that.
09:14:13 19 Move on.

09:14:14 20 MS. GREENSPAN: With respect to what Your Honor just
09:14:16 21 read about what the finding is, I just want to make sure that
09:14:21 22 when plaintiff's counsel describes to the jury what that
09:14:26 23 finding was, that it's consistent with what Your Honor just
09:14:29 24 read from the joint statement of the case.

09:14:32 25 THE COURT: So what are you trying to do by telling me

09:14:37 1 that now? He's going to do it and then if he does, you are
09:14:38 2 going to object. Why are we talking about it?

09:14:39 3 MS. GREENSPAN: Because I'm trying to prevent him
09:14:42 4 from --

09:14:42 5 THE COURT: We're not doing preventative stuff here.
09:14:42 6 You're telling me what you want to do. Move on. What next?

09:14:49 7 MS. GREENSPAN: Your Honor, with respect to the
09:14:51 8 finding of the Court on Friday, the determination about the
09:14:55 9 dispute over discovery issues and whether they can or cannot
09:15:00 10 come in, we understand the Court's ruling on those issues, we
09:15:04 11 just want to make sure that when plaintiff's counsel presents
09:15:08 12 them to the jury that they do not go farther than what this
09:15:13 13 Court --

09:15:14 14 THE COURT: You're doing it again. We have the final
09:15:16 15 pretrial. Plaintiff's counsel was in the wrong. You were in
09:15:20 16 the wrong.

09:15:21 17 Is there anything that you want to put on the record
09:15:23 18 that is a stipulation between the two parties or agreed between
09:15:28 19 the two parties? If he oversteps his boundary, you're going to
09:15:31 20 object and I am going to make a ruling. What next?

09:15:34 21 MS. GREENSPAN: That's all I have, Your Honor. Thank
09:15:37 22 you.

09:15:37 23 THE COURT: Anything from you?

09:15:39 24 MR. FOLEY: Yes, Your Honor. I just wanted to -- and
09:15:42 25 it may not be something for the record. Maybe it's

09:15:45 1 housekeeping. But I did want to just be clear as to how I will
09:15:50 2 refer to what happened on September 23rd.

09:15:54 3 Can I call at trial there was a finding of liability
09:15:57 4 against Drexel for violating the Equal Pay Act?

09:16:00 5 THE COURT: You know what, you know what -- you have
09:16:02 6 been in the room. You're going to do what you're going to do.
09:16:07 7 You're going to do it within the parameters. If you don't
09:16:09 8 understand what I have said over on Friday and before the last
09:16:17 9 effort of the trial, that's not my concern.

09:16:21 10 I expect you both -- unfortunately, you know, I may
09:16:24 11 not be able to expect you both. I expect you to both be able
09:16:28 12 to behave like officers of the Court. I am not babysitting
09:16:33 13 you. This is not a babysitting function. Understood?

09:16:37 14 MR. FOLEY: Understood, Your Honor.

09:16:38 15 THE COURT: Now can we talk about issues that we
09:16:40 16 talked about on Friday that we do need to make a determination
09:16:44 17 about.

09:16:44 18 MR. FOLEY: Yes, Your Honor.

09:16:45 19 THE COURT: With respect to the calculation damages,
09:16:49 20 there was some thought that I would do the calculation of
09:16:53 21 damages, not the jury.

09:16:55 22 Do the parties agree that I am going to do the
09:16:57 23 calculation damages?

09:16:58 24 MR. FOLEY: Yes, Your Honor.

09:16:59 25 MS. GREENSPAN: Yes, we do, Your Honor.

09:17:01 1 THE COURT: Have you stipulated how that would occur?

09:17:05 2 MS. GREENSPAN: We have conferred with one another.

09:17:09 3 We have a chart. What I believe we envision, Your Honor, is

09:17:16 4 that once the jury decides who the comparators are, that

09:17:19 5 counsel and I will put our heads together to provide the Court

09:17:22 6 with those numbers.

09:17:25 7 THE COURT: We are about to go into the trial. If you

09:17:28 8 have not agreed how that's going to happen, what will happen at

09:17:32 9 the end of the trial is that there will be some discussion,

09:17:37 10 right, we are working on charts, you told me that you would

09:17:42 11 have completed that working.

09:17:44 12 I need you to put on the record now what that method

09:17:48 13 of calculation is.

09:17:49 14 MS. GREENSPAN: Your Honor, the only open question --

09:17:51 15 the only reason it's not as simple as just handing you a piece

09:17:55 16 of paper is because we do not yet know if the jury is going to

09:17:59 17 select one person or if they're going to select multiple

09:17:59 18 people.

09:18:02 19 If they select multiple people, then we will average

09:18:06 20 those individual's salaries.

09:18:07 21 THE COURT: What I'm asking for -- I am not asking for

09:18:10 22 a number. I'm asking for a process. And you have been

09:18:13 23 calculating or figuring out that process.

09:18:15 24 Before I bring in that jury and before I select that

09:18:19 25 jury and before we select this case you are going to put on the

09:18:22 1 record how I calculate those damages. Because if you do not,
09:18:26 2 then you're going to start fighting after, and I am not I am
09:18:31 3 not interested in that.

09:18:33 4 You have been working very closely in trying to figure
09:18:36 5 out a process. When I leave the bench you're going to figure
09:18:40 6 out that process and you are going to put that exact process on
09:18:44 7 the record.

09:18:44 8 And if you can give me a printed version of that exact
09:18:48 9 process, all the better. Because I am not going to engage in
09:18:52 10 bickering over how that process works, once the jury comes in
09:18:57 11 with a verdict that is obviously against one or the other of
09:19:00 12 you. Understood?

09:19:01 13 MS. GREENSPAN: Yes, Your Honor.

09:19:02 14 MR. FOLEY: Yes, Your Honor.

09:19:03 15 THE COURT: What about the witness that was subpoenaed
09:19:05 16 and Drexel had told me was on vacation, what is going on with
09:19:10 17 that person?

09:19:10 18 MR. FOLEY: Your Honor, I agreed to inject
09:19:17 19 collegiality into the case, to let her testify via zoom today
09:19:20 20 with the requirement that Drexel setup the zoom connection and
09:19:25 21 take care of that technology.

09:19:28 22 THE COURT: I think it's -- I think we neat to involve
09:19:32 23 our IT folks so when Nelson comes in we will make that happen.

09:19:36 24 When is that going to happen?

09:19:37 25 MR. FOLEY: I am going to put her on first. So I hope

09:19:41 1 that will happen soon.

09:19:44 2 THE COURT: Anything else?

09:19:46 3 MS. GREENSPAN: No, Your Honor.

09:19:49 4 THE COURT: Call me or get Nelson to call me when you

09:19:52 5 figure out that process.

09:19:54 6 MS. GREENSPAN: Thank you, Your Honor.

09:19:55 7 MR. FOLEY: Thank you, Your Honor.

09:26:10 8 (Brief recess)

09:58:10 9 THE COURT: I understand that there has been an

09:58:13 10 agreement on the method of calculation.

09:58:15 11 MR. FOLEY: Yes, Your Honor.

09:58:15 12 THE COURT: Okay. I have an e-mail. Why don't you --

09:58:19 13 I'm looking at the e-mail. I'm not sure I understand it fully.

09:58:23 14 So why don't you put it on the record. One of you can do it

09:58:26 15 and the other one can respond whether that is in fact what you

09:58:31 16 are doing.

09:58:32 17 MR. FOLEY: Okay. Should I read the e-mail or just

09:58:44 18 explain it?

09:58:45 19 THE COURT: Well, I think you need to tell -- from

09:58:47 20 looking at this are you looking at averages? You need to give

09:58:52 21 me some context because the numbers alone don't help me. Just

09:58:56 22 give me the high level process and then we'll dive into what

09:59:01 23 you put down here.

09:59:02 24 MR. FOLEY: Okay. Your Honor, we're assuming for the

09:59:06 25 sake of this calculation that we will be averaging comparators.

09:59:10 1 So we understand Your Honor's interest in the issue, which I
09:59:16 2 share, of having the highest comparator be the sole comparator
09:59:22 3 that we will brief that.

09:59:22 4 THE COURT: Okay. So let me make sure I've got this
09:59:28 5 right. In specific periods, and we are going to discuss what
09:59:32 6 those specific periods are, you're going to take all the people
09:59:38 7 that the jury has determined are appropriate comparators and
09:59:43 8 you are going to take their salary and average it out and
09:59:50 9 compare it to the plaintiff's salary, and the differential will
09:59:54 10 be the damages, which will obviously change, with respect to
10:00:01 11 whether the jury has decided willfulness or non-willfulness.

10:00:06 12 MR. FOLEY: Yes, Your Honor.

10:00:07 13 And the willfulness really reflects the period. So if
10:00:15 14 I'm willful we would have one discrete period of time from May
10:00:20 15 9th 2019 through August 31st 2019, which is the until Mark
10:00:26 16 Greenburg, if he's a comparator, retired, or left the
10:00:31 17 department. And then it would pick up from September 1, 2019
10:00:35 18 all the way to August 31, 2021, when Catudal out, if he is a
10:00:43 19 comparator, retired. And then it would pick up from September
10:00:48 20 1, 2021 up until August 31, 2023, because that's the time Smith
10:00:59 21 on September 1, if he is a comparator, got a promotion or a
10:01:04 22 raise, and then the final time period would be September 1,
10:01:09 23 2023 up until the verdict.

10:01:12 24 THE COURT: Up to the verdict. I see.

10:01:14 25 MR. FOLEY: Correct.

10:01:15 1 THE COURT: I was reading that September 1, 2023 was
10:01:18 2 the verdict.

10:01:19 3 Okay. So why is non-willful different?

10:01:22 4 MR. FOLEY: So non-willful is different because
10:01:24 5 Greenburg is out of the picture. Greenburg was -- Greenburg
10:01:29 6 was not working with Professor Piety in the department before
10:01:35 7 -- he was not working with her after May 9th 2020 which is the
10:01:42 8 two years before the filing of the lawsuit.

10:01:44 9 So Greenburg is out of the picture so the --

10:01:48 10 THE COURT: Hold on. So Greenburg is the only person
10:01:51 11 who would be -- in that list of comparators who was there May
10:01:57 12 9th 2019 through May 9th 2020? Are you saying there are no
10:02:03 13 comparators in that time period prior to May 9th 2020?

10:02:07 14 MR. FOLEY: Oh, no, Your Honor. May 9th 2020 -- I
10:02:11 15 just thought it came out a little bit differently because May
10:02:18 16 9th 2020, all of the comparators other than Greenburg, and
10:02:25 17 other than Smith, because he's not yet promoted, are working in
10:02:29 18 the department. It would be, if chosen as comparators, working
10:02:34 19 with -- would be averaged if we do averaging and compared to
10:02:38 20 Piety.

10:02:39 21 THE COURT: Wait a minute. So stop.

10:02:41 22 You don't have anyone in the non-willful category from
10:02:46 23 May 9th 2019 through May 9th 2020. So are you telling me there
10:02:53 24 will be no calculation in that time period? Because right now
10:02:56 25 there's none listed under the nonwillful.

10:02:59 1 MR. FOLEY: No, Your Honor. Every single comparator
10:03:03 2 except Smith would be included in the willful period up until
10:03:11 3 August 31, 2019.

10:03:13 4 THE COURT: I am talking about the non-willful right
10:03:16 5 now.

10:03:16 6 MR. FOLEY: The non-willful would be everybody but
10:03:19 7 Greenburg until Catudal retires if he's there.

10:03:25 8 THE COURT: So let me just make this clear for the
10:03:27 9 record. Although on this e-mail you have not got anyone listed
10:03:31 10 on the non-willful category from May 9th 2020, what you're
10:03:35 11 saying is that everybody who was working in the department
10:03:37 12 would be included and identified by the jury as a comparator
10:03:42 13 would be included in that calculation that time period.

10:03:45 14 MR. FOLEY: Yes.

10:03:46 15 THE COURT: Is that right?

10:03:47 16 MS. GREENSPAN: Yes. So long as they overlap with
10:03:49 17 plaintiff. We're trying to compare apples to apples so it's
10:03:53 18 all the time period that were to overlap with plaintiff her.

10:03:56 19 THE COURT: So I need you to update this e-mail. You
10:03:59 20 need to tell me what's going on on that May 9th 2019 through
10:04:06 21 May 9th 2020 non-willful time period because otherwise I don't
10:04:09 22 have anything there.

10:04:09 23 You're telling me that everyone who was there who is
10:04:11 24 the jury determines as a comparator would be a part of that
10:04:14 25 calculation, right?

10:04:15 1 MR. FOLEY: Yes. I'm sorry. It's my fault. I'm
10:04:18 2 confuse in the sense that I think the non-willful time period
10:04:21 3 just starts on May 9th 2020 so there would be -- nothing is
10:04:28 4 relevant before that.

10:04:29 5 THE COURT: And why is that?

10:04:30 6 MR. FOLEY: Just because that's two years before the
10:04:33 7 filing of the lawsuit.

10:04:34 8 THE COURT: And that is the statute of limitations
10:04:37 9 with respect to non-willful?

10:04:38 10 MR. FOLEY: Yes, Your Honor.

10:04:39 11 THE COURT: And there is a different state of
10:04:41 12 limitations with respect to willful?

10:04:43 13 MR. FOLEY: Yes, Your Honor. Which is going back
10:04:43 14 three years.

10:04:43 15 THE COURT: That's what I need to have for the record.

10:04:46 16 MR. FOLEY: Yes, Your Honor.

10:04:47 17 THE COURT: So then have you gone through everyone at
10:04:49 18 this point you got on the record.

10:04:51 19 MR. FOLEY: I believe we have. And I added to this
10:04:54 20 just an example at the end if just Richard Astro were chosen as
10:05:00 21 the comparator -- this is very simple. He's worked in the
10:05:04 22 department the entire time as Miss Piety. So from willful it
10:05:08 23 would be comparing Richard Astro's salary from May 9th 2019 up
10:05:15 24 to the verdict, differential with Piety. And then if it's
10:05:20 25 non-willful, it would be comparing his salary alone from May

10:05:24 1 9th 2020 to the verdict to Piety's.

10:05:26 2 THE COURT: Okay. There's also, as I understand it,

10:05:29 3 some question about base salary and administrative supplements.

10:05:35 4 MR. FOLEY: Yes, Your Honor.

10:05:35 5 THE COURT: How are you dealing with that in terms of

10:05:38 6 the calculation?

10:05:39 7 MR. FOLEY: Your Honor, our view is the base

10:05:42 8 salaries -- in our understanding we only find out about them

10:05:45 9 after the verdict. But the -- we only found out about the

10:05:49 10 supplements after the verdict, but the base --

10:05:51 11 THE COURT: After the verdict?

10:05:52 12 MR. FOLEY: Yes. After the judgment. I'm sorry,

10:05:55 13 Your Honor.

10:05:56 14 THE COURT: You mean the judgment in which I found

10:05:59 15 liability against the defendants?

10:06:00 16 MR. FOLEY: Yes, Your Honor. Up until then we did not

10:06:02 17 know that there were any administrative supplements. But after

10:06:06 18 that now we know that there is a base salary for every

10:06:11 19 professor that we assume that is for the professor's work as a

10:06:14 20 professor in the department, and if the professor serves as,

10:06:18 21 for example, a dean or director of a writing program or

10:06:23 22 Department Head, as Dr. Kurtz here does, they get an additional

10:06:29 23 supplement for that, and we received charts after the judgment

10:06:33 24 of liability that gave those additional break-outs of

10:06:40 25 administrative supplements.

10:06:42 1 So the salaries that we had before only -- we didn't
10:06:47 2 know this, but they only covered the base salary of the
10:06:51 3 professors.

10:06:52 4 THE COURT: So my question was much simpler than
10:06:56 5 required that answer.

10:06:57 6 It's just are you going to use the base salary or are
10:07:01 7 you going to include the administrative supplements? At
10:07:02 8 misdemeanor or the have if supplements.

10:07:03 9 MR. FOLEY: We were only using the base salary for the
10:07:06 10 comparisons with Piety because Piety did not have any
10:07:09 11 administrative job or supplement.

10:07:11 12 THE COURT: What about Catudal who had that
10:07:13 13 administrative supplement but I think that initially there was
10:07:15 14 not an understanding that he had it? And I thought that he
10:07:19 15 continued to have it after he stepped down from his
10:07:21 16 administrative position.

10:07:23 17 MR. FOLEY: That is an interesting issue, Your Honor,
10:07:25 18 because his salary does not -- his salary on the chart does not
10:07:31 19 have any administrative supplement. And when I took deposition
10:07:36 20 of Drexel itself and asked if his prior work 20 years earlier
10:07:43 21 as provost had an effect on the salary that we were presented
10:07:47 22 of him, the answer was, hey, I don't know.

10:07:51 23 THE COURT: Okay. So then we need to know whether, in
10:07:54 24 looking at the Catudal basic salary, are we subtracting an
10:08:01 25 administrative supplement or are we not subtracting an

10:08:05 1 administrative supplement in looking at the average?

10:08:07 2 MR. FOLEY: Our position, Your Honor, is that we are
10:08:09 3 not because no such supplement has been shown where as other
10:08:14 4 professor who are going administrative work have supplements.
10:08:18 5 And when the particular administrative position ends, the chart
10:08:23 6 shows the supplement ends.

10:08:25 7 THE COURT: Okay. So this is one of the things we
10:08:27 8 need to work out before the jury makes their determination. So
10:08:31 9 what is Drexel's position with respect to whether Catudal's
10:08:38 10 basic salary -- should there be a deduction for administrative
10:08:43 11 supplement or not.

10:08:44 12 MS. GREENSPAN: No, Your Honor. His base salary is
10:08:46 13 the only number that is in play here.

10:08:47 14 THE COURT: Okay. So he gets an administrative
10:08:51 15 position, he gets a bump, the bump is never taken away but
10:08:54 16 everyone agrees that whatever that salary is, with the bump not
10:08:58 17 taken away, is the base salary that will be used for
10:09:01 18 calculation purposes.

10:09:02 19 MS. GREENSPAN: For the calculation purposes, yes.

10:09:05 20 THE COURT: The way you said it you thought there was
10:09:08 21 some other issue that might pertain to that administrative
10:09:14 22 supplement?

10:09:15 23 MS. GREENSPAN: Well, we intend to put on evidence --
10:09:18 24 Your Honor, base salary is the base salary. That's the numbers
10:09:22 25 we've agreed that's what we're using. But there is no the

10:09:25 1 question that the base salary takes into consideration what his
10:09:29 2 prior role was.

10:09:30 3 THE COURT: Okay. So you're going to be arguing is
10:09:32 4 that it takes into consideration and plaintiff is going to be
10:09:35 5 arguing, well, everybody else has it taken away.

10:09:39 6 Okay. Got it. And that is going to go to
10:09:42 7 willfulness.

10:09:43 8 MR. FOLEY: Exactly, Your Honor.

10:09:44 9 THE COURT: Okay. So I think we got that.

10:09:47 10 Do we think that there is anything else that has not
10:09:50 11 been addressed by the parties that will be relevant to my
10:09:54 12 determination or my calculation of damages once the jury had
10:09:59 13 determined the appropriate comparators? Anything else?

10:10:02 14 MR. FOLEY: No, Your Honor.

10:10:04 15 MS. GREENSPAN: No, Your Honor. We discussed, as Mr.
10:10:07 16 Foley said, someone like Richard Astro, it is a very simple
10:10:12 17 calculation. If it is somebody a little more nuanced like Dr.
10:10:19 18 Catudal who retired at a certain moment in time, it just
10:10:19 19 requires a little more nuance but we have agreed upon on how
10:10:22 20 that would be calculated.

10:10:25 21 THE COURT: So essentially what I am going to be
10:10:27 22 looking at is in given periods of time I am going to be looking
10:10:30 23 at all the people into that period that the jury tells me are
10:10:34 24 comparators and you're going to give me the salaries at that
10:10:39 25 point and I'm just going to say, okay, well this is the

10:10:41 1 average -- or you're going to tell me. I will check your
10:10:44 2 numbers. I am going to say in this time period this is the
10:10:47 3 number we are looking at and then that next time period this is
10:10:51 4 what we're looking at and then I am going to calculate all
10:10:54 5 differentials and that will be the number that you get.

10:10:57 6 MR. FOLEY: Yes, Your Honor.

10:10:58 7 MS. GREENSPAN: Yes, Your Honor.

10:10:59 8 THE COURT: It will change if willful, right?

10:11:01 9 MR. FOLEY: Yes, Your Honor.

10:11:02 10 THE COURT: Okay. Mr. Malave, do we have our jury?

10:11:10 11 THE DEPUTY CLERK: Yes, they're outside.

10:11:12 12 THE COURT: I am going to go off the bench for a
10:11:18 13 second. Okay. Mr. Malave is going to bring them in and then
10:11:22 14 we will get them in as well.

10:11:22 15 (Brief Recess.)

10:14:05 16 (Prospective jurors enter.)

10:14:05 17 THE DEPUTY CLERK: Jury panel, sworn.

10:14:58 18 THE COURT: Good morning. Have a seat. You have all
10:15:02 19 been summon for jury service and have been selected to be
10:15:05 20 considered to serve on a jury panel for a case that is about to
10:15:09 21 be tried. It is a civil case which is likely to take less than
10:15:12 22 one week.

10:15:12 23 Let me provide you with a brief description of the
10:15:15 24 case.

10:15:16 25 The plaintiff, Dr. Marilyn Gaye Piety Foley is a

10:15:19 1 female professor of Philosophy at Drexel University. She has
10:15:24 2 sued her employer, Drexel University, alleging that she was
10:15:28 3 paid less than her male counter parts in violation of the Equal
10:15:33 4 Pay Act.

10:15:34 5 Jurors perform a vital role in the American system of
10:15:37 6 justice. The jury is an essential foundation of our justice
10:15:42 7 system and our Democracy. It is a necessary check on
10:15:45 8 Governmental power, a fundamental safeguard of individual
10:15:47 9 liberty.

10:15:48 10 The protection of our rights and liberties is largely
10:15:51 11 achieved through the teamwork of judge and jury who working
10:15:55 12 together in a common effort put into practice the principles of
10:15:59 13 our great heritage of freedom.

10:16:02 14 The judge determines the law to be applied in the case
10:16:06 15 while the jury decides the facts. Thus, in a very important
10:16:10 16 way jurors become a part of the Court itself.

10:16:14 17 Jurors must be men and women possessed of sound
10:16:17 18 judgment, absolute honesty and a complete sense of fairness.

10:16:22 19 Jury services is a high duty of citizenship.

10:16:26 20 Juries aid in the maintenance of law and order and
10:16:29 21 uphold justice among their fellow citizens. The greatest
10:16:33 22 reward is the knowledge that they have discharged this duty
10:16:38 23 faithfully, honorably and well. In a very real sense therefore
10:16:41 24 the people must rely upon jurors for the protection of life,
10:16:44 25 liberty and the pursuit of happiness.

10:16:47 1 I will shortly be asking you a series of questions.
10:16:49 2 You each have been assigned a number and you should have in
10:16:54 3 your possession a card that that number. Could you all hold it
10:16:56 4 up. Put it down. Does anyone not have a number? Why are
10:17:05 5 you -- you're in the 12 position. Are you in the second row?
10:17:08 6 THE DEPUTY CLERK: No. She's in the front.
10:17:13 7 THE COURT: You sat backwards. Okay. I got it. One
10:17:16 8 on this end and 12 on that end. Okay.
10:17:20 9 When I ask those questions, if you answered the
10:17:22 10 question as yes, you're going to hold up your chart. I am
10:17:26 11 going to then call out the numbers. And once I call out the
10:17:30 12 numbers you can put your card down.
10:17:32 13 Do not respond verbally to any question unless I ask
10:17:36 14 you to do so. Once I have completed my questions, you may be
10:17:39 15 called up to sidebar to answer some other questions. Once that
10:17:42 16 is done, the lawyers will select which of you will serve.
10:17:48 17 First question, are you personally acquainted with the
10:17:55 18 plaintiff Marilyn Gaye Piety Foley who also uses the names MG
10:18:01 19 Piety, Marilyn Gaye Piety and Marilyn Piety, or do you, any
10:18:03 20 member of your family or any friend have any connection of any
10:18:06 21 kind with them? I see no answer.
10:18:10 22 Do you or any member of your family or any friend have
10:18:13 23 any connection of any kind with the defendant Drexel University
10:18:17 24 including as a student or employee?
10:18:23 25 Number 9, number 10, number 12, number 18, number 21

10:18:35 1 and number 22.

10:18:39 2 Are you personally acquainted with or do you or any
10:18:42 3 member of your family or any friend have any connection of any
10:18:45 4 kind with any of the lawyers in this case? And those lawyers
10:18:49 5 are Brian J. Foley, John F. Jack Foley, Lorrie McKinley, the
10:18:57 6 Tucker Law Group, LLC, Leslie Miller Greenspan, Joe H. Tucker,
10:19:03 7 Jr., Hillary Weinstein. I see no answer.

10:19:08 8 Now I am going to go through a list of people who are
10:19:10 9 somehow connected to this case. If your answered yes to any
10:19:16 10 just put your hand up and keep your hand up until I come to the
10:19:17 11 end of the list and called your number.

10:19:18 12 Do you know any of the following people: Peter Amato,
10:19:23 13 Richard Astro,
10:19:26 14 Andre Carrington,
10:19:26 15 Jakeya Caruthers,
10:19:30 16 Jacques Catudal,
10:19:30 17 Nomi Eve,
10:19:33 18 Rose Flavin,
10:19:35 19 John Fry,
10:19:35 20 Mark Greenberg,
10:19:40 21 Nathan Hanna,
10:19:40 22 Gabriella Ibieta,
10:19:44 23 Paul Jensen,
10:19:44 24 Keyanah Jones,
10:19:44 25 Elizbeth Kimball,

10:19:50 1 Adam Knowles,
10:19:50 2 Miriam Kotzin,
10:19:54 3 Roger Kurtz, also known as John Kurtz and J. Roger Kurtz,
10:19:59 4 Stephen Mandell,
10:19:59 5 Donna Murasko,
10:19:59 6 Flavia Padovani,
10:20:06 7 Abioseh Porter,
10:20:08 8 Doreen Saar,
10:20:09 9 Andrew Smith,
10:20:09 10 Eva Thury,
10:20:13 11 Scott Warnock,
10:20:15 12 Megan Weyler, also known as Megan Van Horn,
10:20:19 13 Jennifer Yusin.
10:20:22 14 I see no answer.
10:20:24 15 Now look around the room apart from the people I have
10:20:26 16 mentioned. Do you know anyone else in this courtroom?
10:20:31 17 I see no answer.
10:20:32 18 Have you heard anything about this case in the media
10:20:34 19 or any in other way?
10:20:37 20 No answer.
10:20:38 21 Have you or someone else close to you ever been
10:20:42 22 employed as a teacher?
10:20:50 23 Number 2, number 3, number 4, number 8, number 12, number 15,
10:21:02 24 number 18, number 21, number 22.
10:21:07 25 Have you or someone close to you ever been employed by

10:21:11 1 any University or college?

10:21:16 2 Number 1, number 3, number 7, number 8, number 12, number 19.

10:21:32 3 Have you ever had a job where you were responsible

10:21:35 4 for setting the amount of money that other employees are paid

10:21:38 5 for their work?

10:21:42 6 Number 8, number 13, number 14, number 15, number 17,

10:21:54 7 number 22.

10:21:57 8 Have you ever worked as part of a human relations, HR

10:22:01 9 or personnel office?

10:22:03 10 I see no answer.

10:22:04 11 Have you ever supervised other employees at work?

10:22:13 12 Number 4, number 5, number 6, number 7, number 8,

10:22:20 13 number 10, number 12, number 13, number 14, number 15, number

10:22:32 14 17, number 19, number 20, number 21, and number 22.

10:22:41 15 Do you believe that you, a family member or a close

10:22:43 16 friend have been subject to discrimination at work?

10:22:50 17 Number 8.

10:22:53 18 Do you believe that your employer has treated you

10:22:55 19 unfairly because of your sex or gender?

10:23:01 20 No answer.

10:23:01 21 Have you ever witnessed someone at the job being

10:23:05 22 treated unfairly because of their sex or gender?

10:23:09 23 Number 19, number 8, number 17.

10:23:22 24 Do you believe that because an employee is female her

10:23:26 25 employer should treat her less favorably than someone who is

10:23:31 1 male? I see no answer.

10:23:33 2 Do you believe that because an employee is female her

10:23:36 3 employer should treat her more favorably than someone who is

10:23:39 4 male? I see no answer.

10:23:41 5 Do you believe that somebody at your job was paid more

10:23:43 6 money than you because that person was a different sex or

10:23:46 7 gender? I see no answer.

10:23:51 8 Do you have the view that men and women should not be

10:23:53 9 paid the same for the same work? I see no answer.

10:23:57 10 Have you or someone close to you ever been accused of

10:24:01 11 discriminating against somebody at your workplace because of

10:24:04 12 their sex or gender?

10:24:06 13 I see no answer.

10:24:11 14 I'm sorry. Number 10, you were answering have you or

10:24:15 15 someone close to you ever been accused of discrimination

10:24:20 16 against someone at the workplace?

10:24:22 17 POTENTIAL JUROR: Yes.

10:24:22 18 THE COURT: Okay. That was number 11.

10:24:24 19 Question number 20, Have you ever had any training in

10:24:27 20 connection with compliance with antidiscrimination laws?

10:24:31 21 Number 1, number 5, number 8, number 14, number 15,

10:24:43 22 number 17, number 21, and number 22.

10:24:49 23 Have you or any member of your family or close

10:24:53 24 personal friend have been trained as a lawyer or been employed

10:24:53 25 in a law office?

10:24:59 1 Number 17, number 22, number 4, number 12.

10:25:13 2 Have you ever served as a juror in a criminal or civil

10:25:17 3 case or as a member of a Grand Jury in either a federal or

10:25:20 4 state Court?

10:25:24 5 5, 6, 10, 11, 13, 14.

10:25:39 6 Have you or has anyone in your immediate family ever

10:25:42 7 participated in a lawsuit as a party or in any other capacity?

10:25:50 8 Number 9, number 10, number 13, number 17, number 20,

10:26:02 9 and number 21.

10:26:05 10 If you are selected to sit on this case will you be

10:26:09 11 able to render a verdict solely on the evidence presented at

10:26:12 12 trial and in the context of the law as I will give it to you in

10:26:16 13 my instructions disregarding any other ideas notions or beliefs

10:26:20 14 about the law that you may have encountered in reaching your

10:26:25 15 verdict?

10:26:28 16 Let me ask that the question -- well, everyone else

10:26:32 17 put your hands down. Anyone who did not answer that question

10:26:35 18 in the affirmative put your number up.

10:26:39 19 8 and 17.

10:26:42 20 Is there any member of the panel who has any special

10:26:50 21 disability or problem that would make serving as a members of

10:26:54 22 the jury difficult or impossible?

10:26:57 23 I see no answer.

10:26:59 24 Okay. What we are going to do now is those have of

10:27:03 25 you who have answered a question I am going to bring you up to

10:27:08 1 sidebar. I am going to ask you some questions to get some more
10:27:11 2 information about the question that you answered yes to.

10:27:14 3 You may have the option to also have questions asked
10:27:18 4 by the attorneys. We are going to do this one at a time.

10:27:22 5 While we're doing this, we are going to have white
10:27:25 6 noise so you can't hear what's going on at sidebar.

10:27:29 7 If you want to chat among yourself, that is fine.

10:27:31 8 However, you cannot chat about this case, any case
10:27:35 9 like it, anything to do with the issues in this case, or
10:27:40 10 generally the issues in this case.

10:27:43 11 You cannot talk about people who are in this courtroom
10:27:45 12 or any of the names that you've heard or any of the questions
10:27:48 13 that you were asked.

10:27:50 14 You can, however, talk about the weather, you can talk
10:27:54 15 about the Eagles. If you're a Commanders fan I think maybe you
10:28:02 16 should not talk, but that is up to you.

10:28:05 17 But in essence you can chat about your family, the
10:28:11 18 weather, what have you, things that do not pertain to this case
10:28:14 19 while we are going through the process. Thank you very much.

10:29:00 20 (Sidebar.)

10:29:00 21 THE COURT: The magic number is 14. That is because
10:29:02 22 we are going to have 8 members of the jury and you each have 3
10:29:02 23 preemptories.

10:29:02 24 What that means is on the sheet which I have which is
10:29:08 25 the judge's list, we have to get to 14 before we can stop

10:29:15 1 talking to people.

10:29:16 2 After we've talked to each individual, I will ask

10:29:20 3 whether there are any motions of cause, and I will rule on that

10:29:23 4 motion for cause immediately.

10:29:25 5 So if, for example, I rule on the motion for cause

10:29:28 6 with respect to juror number 4, then the number will go up to

10:29:33 7 15. As I strike people we will have to push the number.

10:29:37 8 Understood?

10:29:38 9 MS. GREENSPAN: Yes.

10:29:46 10 Juror number 1.

10:29:58 11 THE COURT: Good morning, Mr. Hardy. How are you?

10:30:01 12 THE PROSPECTIVE JUROR: I'm doing well.

10:30:02 13 THE COURT: Okay. You answered yes to 2 questions.

10:30:04 14 The first one was, have you or someone else close to you ever

10:30:09 15 been employed by a University or college?

10:30:12 16 THE PROSPECTIVE JUROR: Correct.

10:30:12 17 THE COURT: Tell me about it.

10:30:14 18 THE PROSPECTIVE JUROR: I used to work at children'S

10:30:16 19 hospital of Philadelphia. I was there for four, five years in

10:30:20 20 the research institute over there working with investigators

10:30:26 21 with administration.

10:30:27 22 THE COURT: Okay. Give me more details. What kind of

10:30:32 23 research were you working?

10:30:32 24 THE PROSPECTIVE JUROR: I was involved as a temp

10:30:37 25 transfer. So what that is what happens in license is I work

10:30:38 1 with the investigators to understand what their science and
10:30:41 2 technology was and I work with companies to license those
10:30:44 3 technologies.

10:30:45 4 THE COURT: Did you ever work with anyone from the
10:30:47 5 hospital University of Pennsylvania?

10:30:48 6 THE POTENTIAL JUROR: I did, yes.

10:30:50 7 THE COURT: I ask because my husband works at the
10:30:53 8 Hospital of the University of Pennsylvania. And if he does,
10:30:54 9 then we have an issue.

10:30:57 10 John Detre. Do you know him? Urology.

10:30:57 11 THE PROSPECTIVE JUROR: No.

10:31:02 12 THE COURT: Any follow-up questions?

10:31:08 13 MS. GREENSPAN: No, Your Honor.

10:31:08 14 MR. FOLEY: No, Your Honor.

10:31:10 15 THE COURT: Okay. So then we answer yes to question
10:31:13 16 20. And question 20 is, Have you ever had any training in
10:31:19 17 connection with compliance with antidiscrimination laws? Tell
10:31:23 18 me about that.

10:31:24 19 THE PROSPECTIVE JUROR: I worked at a company CSL, it
10:31:27 20 is a global company. We have lots of trainings and mandatory
10:31:30 21 course I have to go through to stay compliant.

10:31:34 22 Have you had any training in the Equal Pay Act?

10:31:34 23 THE PROSPECTIVE JUROR: No.

10:31:39 24 THE COURT: Would your experience in those trainings
10:31:40 25 impact on your ability to decide this case fairly and

10:31:40 1 impartially?

10:31:46 2 THE PROSPECTIVE JUROR: No.

10:31:46 3 THE COURT: Questions?

10:31:48 4 MS. GREENSPAN: Good morning. Has your training in

10:31:51 5 any way impacted how you potentially view a case, plaintiff,

10:31:58 6 defendant or anything like that?

10:32:00 7 THE PROSPECTIVE JUROR: I don't see it having any

10:32:00 8 impact.

10:32:00 9 MS. GREENSPAN: Thank you.

10:32:05 10 MR. FOLEY: I have no questions.

10:32:06 11 THE COURT: Thank you very much.

10:32:10 12 You just went beyond the scope. You asked a question

10:32:13 13 that I specifically struck.

10:32:16 14 It was your view of plaintiffs given your training.

10:32:20 15 MS. GREENSPAN: I'm sorry, Your Honor. I didn't mean

10:32:22 16 to do that.

10:32:23 17 THE COURT: Okay. Next time you do it I will just

10:32:27 18 tell you and I will explain to you why.

10:32:28 19 MS. GREENSPAN: I'm sorry. I apologize. So we should

10:32:32 20 only ask questions within the scope of what you just asked.

10:32:36 21 THE COURT: Correct. Within the scope of questions

10:32:39 22 that they have answered.

10:32:39 23 And bear in mind the questions that you asked me ask

10:32:43 24 and I did not ask, so we are not going to move into that

10:32:46 25 questions.

10:32:47 1 MS. GREENSPAN: Your Honor, I apologize. I thought I
10:32:48 2 was asking within the scope of the training. I apologize,
10:32:51 3 Your Honor.

10:32:54 4 THE COURT: Any motion to strike?

10:32:57 5 MS. GREENSPAN: No motion to strike.

10:32:58 6 MR. FOLEY: No.

10:32:58 7 THE COURT: Juror number 2.

10:32:58 8 Hi, Mr. Lee.

10:33:15 9 THE PROSPECTIVE JUROR: Hi. Good morning.

10:33:16 10 THE COURT: You answered one question. Have the you
10:33:17 11 or someone close to you ever been employed as a teacher?

10:33:21 12 THE PROSPECTIVE JUROR: Yes. My the son is a 7th 8th
10:33:24 13 grade Science teacher out in Los Angeles.

10:33:27 14 THE COURT: You've heard what this case is about.

10:33:29 15 THE PROSPECTIVE JUROR: Yes.

10:33:30 16 THE COURT: Would your experience with him impact on
10:33:31 17 your ability to decide this case fairly and impartially?

10:33:35 18 THE PROSPECTIVE JUROR: Not at all.

10:33:36 19 THE COURT: Any follow-up?

10:33:37 20 MS. GREENSPAN: No, Your Honor.

10:33:37 21 MR. FOLEY: No, Your Honor.

10:33:39 22 THE COURT: Thank you very much.

10:33:43 23 Juror number 3.

10:34:00 24 Hi, Miss Winters.

10:34:01 25 THE PROSPECTIVE JUROR: Hello.

10:34:02 1 THE COURT: Good to meet you.

10:34:04 2 THE PROSPECTIVE JUROR: You as well.

10:34:05 3 THE COURT: So I am going to ask you what you answered

10:34:06 4 yes to, question 7 and 8.

10:34:08 5 And first one is have you or someone close to you ever

10:34:11 6 been employed as a teacher?

10:34:13 7 THE JUROR: Yes.

10:34:14 8 THE COURT: Who is that?

10:34:15 9 THE PROSPECTIVE JUROR: My best friend is a teacher.

10:34:17 10 THE COURT: What do they teach?

10:34:19 11 THE PROSPECTIVE JUROR: She is a teacher and now a

10:34:22 12 principal.

10:34:23 13 THE COURT: This is high school?

10:34:23 14

10:34:26 15 THE PROSPECTIVE JUROR: She is elementary.

10:34:27 16 THE COURT: And where is that?

10:34:29 17 THE PROSPECTIVE JUROR: Samuel Township.

10:34:32 18 THE COURT: Would your relationship with her impact

10:34:34 19 your ability to decide this case fairly and impartially?

10:34:38 20 THE PROSPECTIVE JUROR: No.

10:34:38 21 THE COURT: Follow-up?

10:34:40 22 MR. FOLEY: Quick clarification. You said she is your

10:34:44 23 old principal?

10:34:46 24 THE PROSPECTIVE JUROR: No, no. She is one of my best

10:34:47 25 friend.

10:34:49 1 MR. FOLEY: Okay. And she is a principal?

10:34:49 2 THE PROSPECTIVE JUROR: She teaches but she is also a

10:34:51 3 principal at the elementary school.

10:34:51 4 MR. FOLEY: Okay. Thank you. I couldn't hear. That

10:34:56 5 white noise is blurring things.

10:34:56 6 THE COURT: Then you said have you someone close to

10:34:59 7 you ever been employed by any University or college.

10:35:02 8 THE PROSPECTIVE JUROR: Yes. My sister-in-law.

10:35:04 9 THE COURT: What does she do?

10:35:05 10 THE PROSPECTIVE JUROR: She taught at the University.

10:35:09 11 THE COURT: Which University?

10:35:09 12 THE PROSPECTIVE JUROR: Eastern.

10:35:10 13 THE COURT: And what did she teach?

10:35:13 14 THE PROSPECTIVE JUROR: Gosh. I forget. I'm sorry.

10:35:15 15 THE COURT: How long ago was this?

10:35:19 16 THE PROSPECTIVE JUROR: Maybe like five years ago.

10:35:20 17 THE COURT: Did you have conversations with her about

10:35:23 18 her work?

10:35:23 19 THE PROSPECTIVE JUROR: No.

10:35:25 20 THE COURT: Would your relationship with her and what

10:35:28 21 she did impact on your ability to decide this case fairly and

10:35:32 22 impartially?

10:35:33 23 THE PROSPECTIVE JUROR: No.

10:35:33 24 THE COURT: Any follow-up?

10:35:35 25 MS. GREENSPAN: No.

10:35:36 1 MR. FOLEY: No follow-up.

10:35:37 2 THE COURT: Thank you very much.

10:35:38 3 Any motions to strike?

10:35:41 4 MR. FOLEY: No.

10:35:42 5 MS. GREENSPAN: Not at this time.

10:35:43 6 THE COURT: This is your only chance. So you can do

10:35:47 7 preemptory but a motion to strike for cause is now.

10:35:54 8 MS. GREENSPAN: Your Honor, given that her sister is

10:35:57 9 -- we would move to strike for cause given that her sister is a

10:36:01 10 teacher and given how closely aligned she will be to the facts

10:36:05 11 of this case, we think that it will be very difficult for her

10:36:08 12 to be fair and neutral and we would ask that she be stricken.

10:36:12 13 MR. FOLEY: Your Honor, my response is that it's her

10:36:14 14 sister-in-law and she said she hasn't really -- if I remember

10:36:18 15 correctly, she said she hasn't really discussed the work with

10:36:21 16 her.

10:36:21 17 THE COURT: And she also said it would not impact on

10:36:25 18 her ability to decide this case fairly and impartially.

10:36:29 19 MR. FOLEY: Correct.

10:36:30 20 THE COURT: So your motion is denied.

10:36:33 21 Juror number 4.

10:36:46 22 THE COURT: Good morning, Ms. Katartynick.

10:36:47 23 THE PROSPECTIVE JUROR: Good morning, Your Honor.

10:36:48 24 THE COURT: So you answered a few questions. I am

10:36:51 25 just going to go through those.

10:36:53 1 The first one is have you or someone close to you ever
10:36:55 2 been employed as a teacher? Tell me about that.
10:36:59 3 THE PROSPECTIVE JUROR: I am a teacher.
10:37:00 4 THE COURT: What do you teach?
10:37:01 5 THE PROSPECTIVE JUROR: Pre-K through 8th grade. I am
10:37:04 6 an art teacher.
10:37:04 7 THE COURT: Where do you teach?
10:37:08 8 THE PROSPECTIVE JUROR: Wyndcroft School in Pottstown,
10:37:08 9 Pennsylvania.
10:37:10 10 THE COURT: This case is about higher education.
10:37:12 11 Would you experience as a teacher impact your ability to decide
10:37:16 12 this case fairly and impartially?
10:37:18 13 THE PROSPECTIVE JUROR: Yes.
10:37:18 14 THE COURT: It would --
10:37:18 15 THE PROSPECTIVE JUROR: Oh, no, no.
10:37:20 16 THE COURT: Okay. It would not impact your ability to
10:37:22 17 decide the case fairly and impartially.
10:37:23 18 THE PROSPECTIVE JUROR: It would not.
10:37:25 19 THE COURT: Any follow-up on that question.
10:37:29 20 MS. GREENSPAN: No, Your Honor.
10:37:29 21 MR. FOLEY: No, Your Honor.
10:37:30 22 THE COURT: Next question is, Have you ever supervised
10:37:33 23 other employees at work. Tell me about that.
10:37:37 24 THE PROSPECTIVE JUROR: I had a number of interns that
10:37:39 25 I would supervise.

10:37:43 1 THE COURT: Okay. As interns were they paid?

10:37:46 2 THE PROSPECTIVE JUROR: They weren't paid, no.

10:37:47 3 THE COURT: So you wouldn't -- did you deal with HR in

10:37:52 4 supervising them at all?

10:37:55 5 THE PROSPECTIVE JUROR: No. It was a small

10:37:55 6 organization.

10:37:57 7 THE COURT: Would your work with those interns impact

10:38:00 8 your ability to decide this case fairly and impartially?

10:38:00 9 THE PROSPECTIVE JUROR: No.

10:38:03 10 THE COURT: Questions?

10:38:10 11 MR. FOLEY: I have no questions.

10:38:10 12 MS. GREENSPAN: No, questions, Your Honor.

10:38:12 13 THE COURT: The next one is have you or any of your

10:38:22 14 family or a close personal friend been trained a lawyer or been

10:38:25 15 employed in a law office? Tell me about that.

10:38:29 16 THE PROSPECTIVE JUROR: I have a friend who is a

10:38:30 17 public defender in Philadelphia and I have ex-the boyfriend who

10:38:36 18 is a Deputy Attorney General in Delaware.

10:38:39 19 THE COURT: Did you talk to them about their work?

10:38:41 20 THE PROSPECTIVE JUROR: Occasionally but not in depth.

10:38:43 21 THE COURT: Have any of them done civil side work?

10:38:46 22 THE PROSPECTIVE JUROR: I don't know that.

10:38:48 23 THE COURT: Okay. Would your conversations with them

10:38:50 24 or your relationships with them impact on your ability to

10:38:54 25 decide this case fairly and impartially?

10:38:54 1 THE PROSPECTIVE JUROR: No.

10:38:56 2 THE COURT: Follow-up?

10:38:57 3 MS. GREENSPAN: No follow-up.

10:38:58 4 THE COURT: Follow-up?

10:38:59 5 MR. FOLEY: None.

10:39:00 6 THE COURT: Thank you very much.

10:39:02 7 Any motions?

10:39:05 8 MS. GREENSPAN: No motions.

10:39:06 9 MR. FOLEY: None, Your Honor.

10:39:07 10 THE COURT: Juror number 5.

10:39:33 11 Good morning, Mr. Moors. How are you?

10:39:36 12 THE PROSPECTIVE JUROR: Good. How are you?

10:39:37 13 THE COURT: You answered a few questions. I am going

10:39:39 14 to go through them.

10:39:39 15 THE PROSPECTIVE JUROR: Okay.

10:39:41 16 THE COURT: First of all, have you ever supervised

10:39:44 17 other employees at work?

10:39:45 18 THE PROSPECTIVE JUROR: Yes.

10:39:45 19 THE COURT: Tell me about that.

10:39:47 20 THE PROSPECTIVE JUROR: I was a sales manager in

10:39:50 21 mid-2000s a couple of years.

10:39:52 22 THE COURT: How many people?

10:39:52 23 THE PROSPECTIVE JUROR: Two.

10:39:55 24 THE COURT: And did you deal with their pay?

10:39:55 25 THE PROSPECTIVE JUROR: No.

10:39:58 1 THE COURT: Anything about that supervisory
10:40:01 2 responsibility that would impact on your ability to decide this
10:40:04 3 case fairly and impartially?
10:40:07 4 THE PROSPECTIVE JUROR: No.
10:40:07 5 MS. GREENSPAN: No follow-up.
10:40:08 6 MR. FOLEY: You said you supervised two people.
10:40:08 7 THE PROSPECTIVE JUROR: Yes.
10:40:12 8 MR. FOLEY: What gender were they?
10:40:14 9 THE PROSPECTIVE JUROR: Female.
10:40:15 10 MR. FOLEY: Both of them?
10:40:17 11 THE PROSPECTIVE JUROR: (Indicating).
10:40:17 12 THE COURT: Okay. Next question is, Have you ever had
10:40:24 13 any training in connection with compliance with
10:40:27 14 antidiscrimination laws?
10:40:29 15 THE PROSPECTIVE JUROR: Yes.
10:40:29 16 THE COURT: Tell me about that.
10:40:29 17 THE PROSPECTIVE JUROR: In our company it was probably
10:40:38 18 2008, 2009, somewhere in there. Manager training. It was just
10:40:41 19 a week-long training that we took. And we had follow-up
10:40:45 20 meetings like once a month after that. It was just our regular
10:40:50 21 managers training, antitrust laws, that sort of thing.
10:40:54 22 THE COURT: Did you have any training on the Equal Pay
10:40:54 23 Act?
10:40:57 24 THE PROSPECTIVE JUROR: Not very much, no. It was
10:40:59 25 more about discrimination. Not discriminating against people

10:41:04 1 of race, not gender. It wasn't really about gender at all.

10:41:10 2 THE COURT: Okay. Was it about pay?

10:41:10 3 THE PROSPECTIVE JUROR: No.

10:41:15 4 THE COURT: Okay. Anything about those trainings that

10:41:18 5 would impact your ability to decide this case fairly and

10:41:18 6 impartially?

10:41:20 7 THE PROSPECTIVE JUROR: I don't think so.

10:41:22 8 THE COURT: Follow-up?

10:41:23 9 MS. GREENSPAN: No.

10:41:23 10 THE COURT: Follow-up?

10:41:24 11 MR. FOLEY: None.

10:41:25 12 THE COURT: And then you answered yes to --

10:41:30 13 THE PROSPECTIVE JUROR: Civil case.

10:41:31 14 THE COURT: Yes. Jury service.

10:41:35 15 THE PROSPECTIVE JUROR: Lansdale. It was about 5 to

10:41:37 16 7 years ago. It was a civil case. Spray foam in the attic

10:41:42 17 went bad. Came to decision. That was it.

10:41:47 18 THE COURT: You did come to a decision.

10:41:47 19 THE PROSPECTIVE JUROR: Yes.

10:41:50 20 THE COURT: And was it for plaintiff or for

10:41:52 21 defendants?

10:41:53 22 THE PROSPECTIVE JUROR: Pro plaintiff but he wasn't

10:41:55 23 happy with the outcome. It wasn't as much as he wanted.

10:41:59 24 THE COURT: Okay. And in the course of that were you

10:42:05 25 jury foreperson?

10:42:05 1 THE PROSPECTIVE JUROR: No.

10:42:07 2 THE COURT: Anything about that experience that would

10:42:08 3 impact your ability to decide this case fairly and impartially?

10:42:12 4 THE PROSPECTIVE JUROR: I wouldn't mind doing it.

10:42:14 5 THE COURT: You wouldn't mind doing this case. Okay.

10:42:18 6 I like a person who wants to do jury service.

10:42:21 7 THE PROSPECTIVE JUROR: The first time it was very

10:42:23 8 crazy, very disorienting. Now it's a little easier.

10:42:27 9 THE COURT: Any follow-up questions?

10:42:31 10 MS. GREENSPAN: No, Your Honor.

10:42:33 11 MR. FOLEY: No, Your Honor.

10:42:34 12 THE COURT: Any motions?

10:42:36 13 MS. GREENSPAN: No motion.

10:42:37 14 MR. FOLEY: None.

10:42:38 15 THE COURT: Juror number 6.

10:42:38 16 Hi, Miss Stevens.

10:42:38 17 THE PROSPECTIVE JUROR: Good morning.

10:42:38 18 THE COURT: Good to meet you.

10:42:38 19 THE PROSPECTIVE JUROR: You as well.

10:42:56 20 I am going to go through the questions that you

10:42:58 21 answered yes to.

10:42:58 22 THE PROSPECTIVE JUROR: Okay.

10:42:59 23 THE COURT: First of all, you said you supervise other

10:43:02 24 employees at work.

10:43:03 25 THE PROSPECTIVE JUROR: Yes, I do.

10:43:04 1 I am selling supervisor at the Hermes in Princeton.
10:43:11 2 So really more of an internship thing, not make anything, doing
10:43:15 3 business decisions on hiring people. More overseeing the
10:43:18 4 function on the floor and just helping my less tenured
10:43:23 5 colleagues basically.
10:43:24 6 THE COURT: So when you help them, give me an idea.
10:43:27 7 THE PROSPECTIVE JUROR: Like if they need processing a
10:43:30 8 return or mentorship of an sale with a client. I am not making
10:43:35 9 business decisions.
10:43:36 10 THE COURT: Do you determine how much they get paid?
10:43:36 11 THE PROSPECTIVE JUROR: No.
10:43:38 12 THE COURT: Are you their boss?
10:43:40 13 THE PROSPECTIVE JUROR: I am technically more tenured
10:43:43 14 than they are. I am not making business decisions as far as
10:43:46 15 salary goes, benefits or any of that or scheduling.
10:43:50 16 THE COURT: Anything about that experience that would
10:43:51 17 impact your ability to decide this case fairly and impartially?
10:43:56 18 THE PROSPECTIVE JUROR: No.
10:43:56 19 THE COURT: Follow-up?
10:43:57 20 MS. GREENSPAN: No follow-up.
10:43:59 21 THE COURT: Follow-up?
10:44:00 22 MR. FOLEY: Do you do formal evaluations of employees?
10:44:03 23 THE PROSPECTIVE JUROR: No.
10:44:03 24 MR. FOLEY: Do you supervise men and women?
10:44:05 25 THE PROSPECTIVE JUROR: Yes.

10:44:06 1 MR. FOLEY: About how many?

10:44:06 2 THE PROSPECTIVE JUROR: There's 13 of us.

10:44:08 3 MR. FOLEY: How is it divided between men and women?

10:44:11 4 THE PROSPECTIVE JUROR: We have two gentlemen, the

10:44:13 5 rest are female.

10:44:15 6 THE COURT: And then you said you served as a juror.

10:44:18 7 THE PROSPECTIVE JUROR: Yes.

10:44:18 8 THE COURT: Tell he about that.

10:44:19 9 THE PROSPECTIVE JUROR: It was a couple years ago.

10:44:22 10 West Chester, PA. If it was a civil case. West Chester. It

10:44:28 11 was about fire suppression system not functioning in a

10:44:31 12 restaurant. It was about 3 weeks. Very long. And the bacon

10:44:37 13 basically went on the grill the fire suppression went over

10:44:41 14 that. But everything, that grill, burnt to the ground. Crazy.

10:44:47 15 Never look at bacon quite the same way.

10:44:50 16 THE COURT: Did you come to a verdict?

10:44:50 17 THE PROSPECTIVE JUROR: Yes.

10:44:51 18 THE COURT: Was it plaintiff or defense?

10:44:53 19 THE PROSPECTIVE JUROR: It was for the defense.

10:44:57 20 THE COURT: Were you the foreperson on that?

10:44:58 21 THE PROSPECTIVE JUROR: No, I was not.

10:44:59 22 THE COURT: Anything about that experience that would

10:45:01 23 impact your ability to decide this case fairly and impartially?

10:45:04 24 THE PROSPECTIVE JUROR: No. I try to be object with

10:45:05 25 everything.

10:45:06 1 THE COURT: Follow-up?

10:45:08 2 MS. GREENSPAN: No.

10:45:08 3 THE COURT: Follow-up?

10:45:09 4 MR. FOLEY: No.

10:45:10 5 THE COURT: I think that is it for the questions you

10:45:13 6 answered yes. Thank you very much.

10:45:18 7 Any motions?

10:45:20 8 MS. GREENSPAN: No.

10:45:21 9 MR. FOLEY: No.

10:45:22 10 THE COURT: Juror number 7.

10:45:22 11 Good morning Ms. Petro.

10:45:22 12 THE PROSPECTIVE JUROR: Good morning.

10:45:48 13 THE COURT: I am going to follow-up on the questions

10:45:50 14 that you answered yes to.

10:45:51 15 And initially was have you or someone else close to

10:45:55 16 you ever been employed by a University or college.

10:45:58 17 THE PROSPECTIVE JUROR: Yes. So I work at the

10:45:59 18 University book store for Princeton. We are not owned by them

10:46:03 19 but I know a lot of faculty and staff there. I would say

10:46:06 20 they're more acquaintances but some of my co-workers have gone

10:46:11 21 on to become staff.

10:46:14 22 THE COURT: In working in the book store were you

10:46:18 23 selling?

10:46:18 24 THE PROSPECTIVE JUROR: Selling textbooks.

10:46:20 25 THE COURT: Did you ever talk to any of them about

10:46:22 1 their working conditions?

10:46:22 2 THE PROSPECTIVE JUROR: No.

10:46:25 3 THE COURT: Whether they thought they were being

10:46:27 4 treated fairly?

10:46:30 5 THE PROSPECTIVE JUROR: No. It was mostly students.

10:46:31 6 But I do talk to faculty there a lot but not about their

10:46:35 7 working conditions.

10:46:36 8 THE COURT: Anything about that job that would impact

10:46:36 9 your ability to decide this case fairly and impartially?

10:46:41 10 THE PROSPECTIVE JUROR: I don't think so.

10:46:43 11 THE COURT: When you say I don't think that's just a

10:46:45 12 way people talk but I need a definite one way or the other.

10:46:47 13 THE PROSPECTIVE JUROR: Can you say that question

10:46:47 14 again?

10:46:48 15 THE COURT: Is there anything about that experience

10:46:50 16 working at the book store that would impact your ability to

10:46:53 17 decide this case fairly and impartially?

10:46:53 18 THE PROSPECTIVE JUROR: No.

10:46:55 19 THE COURT: Follow-up?

10:46:56 20 MS. GREENSPAN: No follow-up.

10:46:57 21 THE COURT: Follow-up?

10:46:58 22 MR. FOLEY: I may have missed it. Do you still work

10:47:02 23 at the book store?

10:47:03 24 THE PROSPECTIVE JUROR: I do.

10:47:05 25 THE COURT: Okay. Then you also answered question 11,

10:47:09 1 have you ever supervised other employees.

10:47:12 2 THE PROSPECTIVE JUROR: Yes. I am a manager at the

10:47:14 3 book store.

10:47:16 4 THE COURT: Do you set the salary?

10:47:16 5 THE PROSPECTIVE JUROR: No.

10:47:21 6 THE COURT: Has anyone ever talked to you about their

10:47:23 7 sense of whether the salary is unfair?

10:47:29 8 THE PROSPECTIVE JUROR: Not to me directly but they

10:47:33 9 are employees there negotiating a contract to unionize. I am

10:47:39 10 not involved in that meeting.

10:47:40 11 It is relatively small book store but the owner of the

10:47:43 12 book store is the only one negotiating. There is no contract

10:47:47 13 yet.

10:47:48 14 THE COURT: Okay. And part of the contract

10:47:50 15 negotiations is pay?

10:47:52 16 THE PROSPECTIVE JUROR: Yes.

10:47:52 17 THE COURT: Essentially is it -- do you know anything

10:47:57 18 about the pay negotiations at all?

10:48:00 19 THE PROSPECTIVE JUROR: No. The owner will give us

10:48:02 20 updates. Like whether -- they're only floor managers that are

10:48:06 21 not involved in the negotiations but they will update us about

10:48:10 22 the details of the contract, but I don't have any say in it.

10:48:17 23 THE COURT: Okay. Has the owner talked to you at all

10:48:22 24 about the pay negotiations?

10:48:24 25 THE PROSPECTIVE JUROR: Yes.

10:48:24 1 THE COURT: And what has he said, she said?

10:48:29 2 THE PROSPECTIVE JUROR: Just that he will detail what

10:48:31 3 the workers have asked for in the negotiations and whether they

10:48:37 4 are agreeing or not about wages and benefits so I know the

10:48:43 5 numbers involved in the wages.

10:48:46 6 THE COURT: And is there anything about those

10:48:48 7 negotiations what you heard from the owner or heard from the

10:48:51 8 people you supervise that you think would impact on your

10:48:55 9 ability to decide this case fairly and impartially?

10:48:55 10 THE PROSPECTIVE JUROR: No.

10:49:00 11 THE COURT: Okay. Follow-up?

10:49:01 12 MS. GREENSPAN: Briefly.

10:49:02 13 You said you supervise individuals at the book store.

10:49:05 14 How many people do you supervise?

10:49:05 15 THE PROSPECTIVE JUROR: Four.

10:49:08 16 MS. GREENSPAN: Are they men and women?

10:49:11 17 THE PROSPECTIVE JUROR: All men.

10:49:13 18 THE COURT: Follow-up?

10:49:15 19 MS. GREENSPAN: That's all I have. Thank you.

10:49:17 20 MR. FOLEY: Just to make sure I understand, you're not

10:49:21 21 in the union, right.

10:49:23 22 THE PROSPECTIVE JUROR: Right. Manager.

10:49:26 23 MS. GREENSPAN: And I don't know if I'm allowed to ask

10:49:29 24 this, Your Honor.

10:49:29 25 THE COURT: I will tell you.

10:49:30 1 MR. FOLEY: Thank you.

10:49:31 2 Do you have an opinion on whether the pay of the

10:49:34 3 employees should be higher as part of the negotiation?

10:49:40 4 THE COURT: I think it's on the line but go ahead.

10:49:40 5 MR. FOLEY: Thank you, Your Honor.

10:49:44 6 THE PROSPECTIVE JUROR: Do I have an opinion? Yes, I

10:49:49 7 have an opinion that it is fair.

10:49:52 8 MR. FOLEY: That the desired salary is fair or the

10:49:56 9 current salary is fair?

10:49:58 10 THE PROSPECTIVE JUROR: The current is fair.

10:50:02 11 THE COURT: Ms. Greenspan, do you want to follow-up on

10:50:03 12 that particular answer?

10:50:05 13 MS. GREENSPAN: No, Your Honor.

10:50:10 14 THE COURT: Okay. And I think those are the two

10:50:13 15 questions you answered. Great. Thank you very much.

10:50:18 16 Any motions?

10:50:20 17 MS. GREENSPAN: No, Your Honor.

10:50:21 18 MR. FOLEY: I would like a motion to strike,

10:50:25 19 Your Honor, because even though she is not involved in the

10:50:28 20 negotiation she has an opinion on it, and union matters are

10:50:33 21 often very hotly contested and people get in very people get

10:50:39 22 very backed into their positions.

10:50:42 23 THE COURT: Okay. And she indicated to me that she

10:50:44 24 could be fair regardless of the position she is in with respect

10:50:48 25 to that so your motion is denied.

10:50:51 1 Juror number 8.

10:50:51 2 Mr. Mayer. Very excited to be here.

10:50:58 3 You answered a lot of questions. We are going to go

10:51:01 4 through them one at a time. Have you or someone else been

10:51:05 5 employed as a teacher?

10:51:07 6 THE PROSPECTIVE JUROR: Yes.

10:51:07 7 THE COURT: Tell me about it.

10:51:09 8 THE PROSPECTIVE JUROR: As a graduate student in

10:51:13 9 academia part of my responsibilities included teaching.

10:51:17 10 THE COURT: What were you graduate student in?

10:51:19 11 THE PROSPECTIVE JUROR: Bio chemistry.

10:51:21 12 THE COURT: Who did you teach?

10:51:23 13 THE PROSPECTIVE JUROR: Usually freshmen and sophomore

10:51:26 14 level classes.

10:51:27 15 THE COURT: Is there anything about your experience as

10:51:34 16 a teacher, as a graduate student that would impact your ability

10:51:37 17 to decide this case fairly and impartially?

10:51:39 18 THE PROSPECTIVE JUROR: Very much. My advisor was

10:51:42 19 denied tenure as one of only two women in the department. It

10:51:47 20 was ultimately overturned because it was so biased.

10:51:51 21 THE COURT: So given that experience -- what have you

10:51:54 22 taken from that experience?

10:51:56 23 THE PROSPECTIVE JUROR: I think that experience and

10:51:58 24 just my general experience in academia as well as multiple

10:52:04 25 American institutions, institutions are highly biased against

10:52:08 1 female professor.

10:52:10 2 THE COURT: Follow-up on that one?

10:52:15 3 Miss Greenspan?

10:52:20 4 MS. GREENSPAN: Your Honor has already asked so no.

10:52:22 5 THE COURT: The next question was, have you or someone

10:52:26 6 else close to you ever been employed by any University or

10:52:30 7 college. Is that the same thing?

10:52:31 8 THE PROSPECTIVE JUROR: Yes.

10:52:32 9 THE COURT: Then the next was have you ever had a job

10:52:35 10 where you were responsible for setting the amount of money

10:52:38 11 that other employees were paid for their work?

10:52:41 12 THE PROSPECTIVE JUROR: My current role, yes.

10:52:43 13 THE COURT: What do you do in your current role?

10:52:45 14 THE PROSPECTIVE JUROR: I am a manager.

10:52:46 15 THE COURT: At a university or somewhere else?

10:52:48 16 THE PROSPECTIVE JUROR: I work for Merck.

10:52:49 17 THE COURT: So you manage which department in Merck?

10:52:55 18 THE PROSPECTIVE JUROR: How do I describe that? A

10:52:57 19 group of scientists.

10:53:01 20 THE COURT: Scientists working on what?

10:53:05 21 THE PROSPECTIVE JUROR: Vaccine testing.

10:53:07 22 THE COURT: Do you know a person called Priscilla

10:53:10 23 Robinson?

10:53:12 24 THE PROSPECTIVE JUROR: I do.

10:53:14 25 THE COURT: Okay. Thank you very much. Have a seat.

10:53:16 1 I am very good friends with Pricilla Robinson with
10:53:20 2 whom he works. I assume there is a motion to strike.
10:53:23 3 MS. GREENSPAN: There is.
10:53:25 4 MR. FOLEY: Yes.
10:53:27 5 THE COURT: Struck. He was Michael Mayer, right?
10:53:32 6 THE LAW CLERK: Yes.
10:53:32 7 THE COURT: Strike.
10:53:37 8 Number 9. Juror number 9.
10:53:49 9 So you answered two questions. The first was do you
10:53:53 10 or any member of your family or any friend have any connection
10:53:56 11 of any kind with the defendant Drexel University.
10:53:59 12 THE PROSPECTIVE JUROR: Yes. My neighbor's son went
10:54:01 13 to Drexel and then my boyfriend's dad also went to Drexel.
10:54:06 14 THE COURT: So what did your neighbor's son do at
10:54:06 15 Drexel?
10:54:11 16 THE PROSPECTIVE JUROR: Engineering. We know them but
10:54:12 17 we are not super close.
10:54:14 18 THE COURT: Do you talk to the son about his time at
10:54:16 19 Drexel?
10:54:17 20 THE PROSPECTIVE JUROR: Not really.
10:54:18 21 THE COURT: Then you said your dad?
10:54:20 22 THE PROSPECTIVE JUROR: My boyfriend's dad.
10:54:21 23 THE COURT: So what did your boyfriend's do at Drexel?
10:54:25 24 THE PROSPECTIVE JUROR: I don't know what he like
10:54:26 25 studied but he was an accountant.

10:54:29 1 THE COURT: Have you talked to him about his time at
10:54:30 2 Drexel?
10:54:30 3 THE PROSPECTIVE JUROR: No.
10:54:32 4 THE COURT: Anything about your relationship with
10:54:33 5 either of those two that would impact your ability to decide
10:54:36 6 this case fairly and impartially?
10:54:36 7 THE PROSPECTIVE JUROR: No.
10:54:38 8 THE COURT: Follow-up?
10:54:39 9 MS. GREENSPAN: None.
10:54:42 10 THE COURT: Follow-up?
10:54:43 11 MR. FOLEY: Do you know how long ago your boyfriend's
10:54:47 12 dad, how long ago did he graduate from Drexel?
10:54:54 13 THE PROSPECTIVE JUROR: He is 62 -- 63 now. 18 to 22.
10:55:01 14 THE COURT: A while back.
10:55:02 15 THE PROSPECTIVE JUROR: Yeah.
10:55:03 16 THE COURT: Let's move on to the next question. Have
10:55:08 17 you or anyone in your immediate family ever participated in a
10:55:11 18 lawsuit as a party or in any other capacity.
10:55:11 19 THE PROSPECTIVE JUROR: Yes.
10:55:11 20 THE COURT: Tell me about that.
10:55:16 21 THE PROSPECTIVE JUROR: My parents when they built our
10:55:19 22 house. It was like when I was 8. It was a while ago so I am
10:55:23 23 not very clear on the details. But my parents said that they
10:55:27 24 purposefully didn't include like a lawyer in our house and it
10:55:31 25 caused a lot of leakage and my parents had to pay a lot of

10:55:34 1 money to fix the walls and stuff.

10:55:38 2 THE COURT: Do you know whether they -- did they go to

10:55:38 3 trial?

10:55:44 4 THE PROSPECTIVE JUROR: I don't know. I know the

10:55:46 5 company that they sued went bankrupt, so I think it kind of

10:55:49 6 settled maybe. I don't know the correct term.

10:55:52 7 THE COURT: Do you remember -- during that time period

10:55:54 8 you were 8?

10:55:55 9 THE PROSPECTIVE JUROR: Yes.

10:55:55 10 THE COURT: Did you talk to your parents about that?

10:55:57 11 THE PROSPECTIVE JUROR: Not really.

10:55:58 12 THE COURT: Do you remember any details about the

10:56:00 13 dispute?

10:56:01 14 THE PROSPECTIVE JUROR: I just know that they said

10:56:03 15 they had pay to make it happen. I don't know if there was a

10:56:10 16 trial. The whole suing.

10:56:14 17 THE COURT: Fair to say you don't remember a whole lot

10:56:17 18 of details?

10:56:18 19 THE PROSPECTIVE JUROR: I do not.

10:56:19 20 THE COURT: Anything about that experience that would

10:56:20 21 impact your ability to decide this case fairly and impartially?

10:56:24 22 THE PROSPECTIVE JUROR: No.

10:56:24 23 THE COURT: Follow-up?

10:56:26 24 MS. GREENSPAN: No.

10:56:26 25 THE COURT: Any follow-up?

10:56:27 1 MR. FOLEY: (Indicating).

10:56:29 2 THE COURT: Next question which is have you or anyone

10:56:36 3 in your immediate -- that's the question. You answered two

10:56:36 4 questions.

10:56:44 5 THE PROSPECTIVE JUROR: Yes.

10:56:44 6 MS. GREENSPAN: Your Honor, if I may just ask you,

10:56:47 7 juror number 9's column is blank.

10:56:50 8 THE COURT: Juror number 9. Come on back.

10:56:57 9 MS. GREENSPAN: There is no profession.

10:57:04 10 THE COURT: Sorry about that.

10:57:04 11 We have a sheet which shows where you work. Where do

10:57:10 12 you work?

10:57:10 13 THE PROSPECTIVE JUROR: I work in New York City.

10:57:12 14 THE COURT: As a what?

10:57:13 15 THE PROSPECTIVE JUROR: I am a literary agent

10:57:15 16 assistant.

10:57:17 17 THE COURT: Okay. What kind of books do you assist

10:57:19 18 with?

10:57:20 19 THE PROSPECTIVE JUROR: She does mostly kids books,

10:57:24 20 picture books.

10:57:25 21 THE COURT: Do any Philosophy books?

10:57:25 22 THE PROSPECTIVE JUROR: No.

10:57:26 23 THE COURT: Anything about that work that would impact

10:57:29 24 your ability to decide this case fairly and impartially?

10:57:33 25 THE PROSPECTIVE JUROR: No.

10:57:33 1 MR. FOLEY: Follow-up?

10:57:35 2 MS. GREENSPAN: No follow-up.

10:57:36 3 THE COURT: Follow-up?

10:57:37 4 MR. FOLEY: Are you involved in any of the contracts

10:57:40 5 setting pay for royalties or anything for the writers?

10:57:44 6 THE PROSPECTIVE JUROR: I see them all but I don't

10:57:46 7 have any decision-making or anything like that.

10:57:51 8 THE COURT: Okay.

10:57:53 9 MR. FOLEY: Do you have any opinion on whether the

10:57:55 10 contracts are fair?

10:57:56 11 THE COURT: Okay. That's beyond. Thank you very

10:57:58 12 much.

10:58:01 13 It's a business relationship. It is not an employment

10:58:05 14 issue.

10:58:06 15 MR. FOLEY: Okay. Thanks.

10:58:07 16 THE COURT: Juror number 10. Good morning, Mr.

10:58:34 17 Zassick.

10:58:34 18 THE PROSPECTIVE JUROR: Good morning, Your Honor.

10:58:34 19 THE COURT: How are you?

10:58:34 20 THE PROSPECTIVE JUROR: Good. Good.

10:58:36 21 THE COURT: I am going to go through those questions

10:58:37 22 that you answered.

10:58:38 23 First of all, do you or any member of your family or

10:58:41 24 friend have any connection of any kind with the defendant

10:58:43 25 Drexel University including student or employee?

10:58:46 1 THE PROSPECTIVE JUROR: Me daughter, she's an RN with
10:58:52 2 CHOP so she's involved in their nurse practitioner program
10:58:54 3 online. She's currently a student with Drexel.
10:58:55 4 THE COURT: So you said she's with CHOP. She works at
10:58:58 5 CHOP but goes to Drexel?
10:59:00 6 THE PROSPECTIVE JUROR: Yeah, yeah. A lot of folks
10:59:02 7 do. She's a full-time but it's on-line. They have a program
10:59:07 8 there, end of school nursing.
10:59:10 9 THE COURT: Do you talk to her about her work?
10:59:14 10 THE PROSPECTIVE JUROR: Yeah. I know about her work.
10:59:16 11 Yeah. She's a nurse stuff so stuff about CHOP. She will tell
10:59:19 12 me about Drexel, the program that she's in.
10:59:22 13 THE COURT: Is she paid by Drexel or by CHOP?
10:59:26 14 THE PROSPECTIVE JUROR: She is employed by CHOP but
10:59:29 15 she has student loans, you know.
10:59:32 16 THE COURT: Okay. Does she get paid?
10:59:34 17 THE PROSPECTIVE JUROR: To go to Drexel? No. Oh,
10:59:38 18 yeah, she's a full-time RN.
10:59:41 19 THE COURT: And does she talk to you -- has she ever
10:59:44 20 talked to you about pay at Drexel?
10:59:47 21 THE PROSPECTIVE JUROR: No, not at all.
10:59:48 22 THE COURT: Anything about your relationship with her
10:59:49 23 or anything that you said to her that would impact your ability
10:59:53 24 to decide this case fairly and impartially?
10:59:53 25 THE PROSPECTIVE JUROR: No.

10:59:56 1 THE COURT: Follow-up on that one?

10:59:59 2 MS. GREENSPAN: No, Your Honor.

11:00:00 3 MR. FOLEY: So I just want to clarify. Is she a

11:00:05 4 student at Drexel, paying Drexel.

11:00:09 5 THE COURT: Yes, she's in their school of nursing,

11:00:13 6 nurse practitioner program. She pays tuition.

11:00:16 7 MR. FOLEY: How long has she been there?

11:00:19 8 THE COURT: She's about half way through the program.

11:00:22 9 It's about a two year program. She graduates in '26.

11:00:24 10 MS. GREENSPAN: Thank you.

11:00:24 11 THE COURT: Is there anything about your -- I am not

11:00:27 12 sure if I asked this. Anything about your relationship with

11:00:29 13 her and her being a student at Drexel that would impact your

11:00:32 14 ability to decide this case fairly and impartially?

11:00:32 15 THE PROSPECTIVE JUROR: No.

11:00:35 16 THE COURT: Let's move to the next one. Have you ever

11:00:37 17 supervised other employees at work?

11:00:40 18 THE PROSPECTIVE JUROR: Yeah. I am a supervisor for

11:00:42 19 the defense logistics agency, which is up in Philadelphia,

11:00:45 20 headquartered. It's part of DOD, so I am a manager.

11:00:49 21 THE COURT: When you manage, do you also set people's

11:00:52 22 pay?

11:00:53 23 THE PROSPECTIVE JUROR: No, I do not.

11:00:54 24 THE COURT: It's set by the Government but I know that

11:00:57 25 our supervisor here will make the recommendations, step

11:01:01 1 increased or merit increases. Do you to do that?

11:01:04 2 THE PROSPECTIVE JUROR: What I do decide is -- not

11:01:06 3 step increases. They are automatic. I am part of -- when you

11:01:10 4 say merit, that's merit promotions. I am a part of, you know,

11:01:14 5 boards with hire promotions. So I am on hiring boards. And

11:01:17 6 the only thing that I do now -- we changed. But in the past

11:01:23 7 what I would do is I would recommend -- we get a yearly bonus.

11:01:26 8 So who are my A people, B people, C people. I don't decide the

11:01:31 9 money. That is decided by the higher ups but I would designate

11:01:37 10 like an outstanding and then they would get money.

11:01:38 11 Right now we don't do it. It is a pool of money. But

11:01:41 12 I can still decide -- say something is excellent, they get a

11:01:46 13 little bit more. Somebody that's lets, they get a little less.

11:01:48 14 So I have the determination to decide if someone gets a little

11:01:52 15 bit higher based on numbers.

11:01:54 16 THE COURT: Have you heard or been faced any

11:01:58 17 complaints about the process that he you engaged in in

11:02:00 18 determining whether people should get those extra months?

11:02:03 19 THE PROSPECTIVE JUROR: No, not usually people.

11:02:05 20 Don't -- you know, every now and then. Never personally to me

11:02:09 21 because I believe I am a fair supervisor. But I never had an

11:02:15 22 issue with that.

11:02:16 23 THE COURT: Is there anything about that job that

11:02:19 24 would impact your ability to decide this case fairly and

11:02:19 25 impartially?

11:02:23 1 THE PROSPECTIVE JUROR: No, no.

11:02:24 2 THE COURT: Follow up?

11:02:25 3 MS. GREENSPAN: Not on that, Your Honor. I was trying

11:02:27 4 to interject on a follow-up about that and I apologize I didn't

11:02:30 5 get in there quick number.

11:02:33 6 THE COURT: Which question --

11:02:33 7 THE PROSPECTIVE JUROR: The question about his

11:02:33 8 daughter's works at Drexel.

11:02:33 9 THE COURT: Okay.

11:02:35 10 MS. GREENSPAN: You had said that your daughter talks

11:02:38 11 to you about Drexel. When she talks to you about Drexel, is

11:02:41 12 she talking --

11:02:43 13 THE PROSPECTIVE JUROR: Just specific about her

11:02:44 14 program, like, hey, my professors when she's on-line. This is

11:02:49 15 good. It is a good program. She's accepted in quite a few so

11:02:53 16 she's like I like it, certain things. She's down there. She

11:02:59 17 works right there. Goes to the library sometimes. Just

11:03:05 18 endemic as in how she's doing in the program she is in. We

11:03:09 19 don't talk often. But in this class, dad. She did well.

11:03:15 20 She's progressing through is so...

11:03:18 21 THE COURT: You served as a juror before?

11:03:20 22 THE PROSPECTIVE JUROR: Yes, I have.

11:03:20 23 THE COURT: Tell me about that.

11:03:21 24 THE PROSPECTIVE JUROR: I served two times. I was an

11:03:22 25 alternate in an assault case in North Philadelphia. I was an

11:03:30 1 alternate. So I sat through everything, didn't make a
11:03:33 2 decision.

11:03:33 3 THE COURT: That sucks, doesn't it?

11:03:37 4 THE PROSPECTIVE JUROR: Yeah. Well, yeah, right.

11:03:39 5 However, I was part of a murder case and it was when we were in
11:03:47 6 voir dire, right here, it was -- as far as we knew it was a
11:03:53 7 death penalty case. So I served on that case. The defendant
11:03:56 8 was found guilty and the judge at that time brought us in and
11:04:00 9 he said because there was an aggravating circumstances he was
11:04:03 10 going to give him life imprisoned. So he wasn't sentenced to
11:04:06 11 death. But I was part of that jury so we determined, the jury,
11:04:11 12 that he was guilty of that.

11:04:14 13 THE COURT: In that second case were you the
11:04:17 14 foreperson?

11:04:18 15 THE PROSPECTIVE JUROR: No.

11:04:19 16 THE COURT: Was there anything in either of the cases
11:04:21 17 that would impact your ability to decide this case fairly and
11:04:21 18 impartially?

11:04:21 19 THE PROSPECTIVE JUROR: No.

11:04:26 20 THE COURT: Follow-up on that question.

11:04:28 21 MS. GREENSPAN: No, Your Honor.

11:04:30 22 MR. FOLEY: Did you like being on the jury?

11:04:34 23 THE PROSPECTIVE JUROR: The only thing about it is if
11:04:35 24 you ask me when you're in common law court or state Court you
11:04:40 25 have the families there, it is a little more pressure because

11:04:44 1 it's somebody's life. When the verdict was read there is gasps
11:04:47 2 in the courtroom. It is a little more dramatic so it is
11:04:50 3 uncomfortable to some degree where the judge actually took to
11:04:54 4 us to a special elevator down to Broad Street. So part of it,
11:05:02 5 it's a little bit, you know.

11:05:02 6 THE COURT: Let me ask the final question. Have you
11:05:04 7 or anyone in your immediate family ever participated in a
11:05:08 8 lawsuit as a party or in any other capacity?

11:05:08 9 THE PROSPECTIVE JUROR: The only thing is am with the
11:05:13 10 county but I work as a federal supervisor for the DOD. I was
11:05:16 11 in a hiring action for a promotion. The end of this a certain
11:05:21 12 individuals went through our equal employment opportunity. And
11:05:25 13 I was part of -- they brought up not a formal lawsuit but I was
11:05:29 14 accused of being discriminatory.

11:05:32 15 The individual was missing an arm. They said the
11:05:33 16 reason that we didn't hire him and I was part of the panel.
11:05:40 17 And he was handicapped.

11:05:41 18 THE COURT: Disability discrimination?

11:05:44 19 THE PROSPECTIVE JUROR: Right. And it wasn't the
11:05:45 20 case. We just hired the best individuals.

11:05:47 21 THE COURT: What happened in that case?

11:05:48 22 THE PROSPECTIVE JUROR: He ended up getting the
11:05:50 23 promotion anyway. So he got the promotion. Investigator comes
11:05:53 24 from DOD, he will say if, hey, was it determined on just -- he
11:05:59 25 was the most qualified.

11:06:00 1 We hired the most qualified individuals. He brought a
11:06:02 2 case. The case was decided however it was and he ended up --
11:06:08 3 our senior leader said just give him the promotion, make it go
11:06:13 4 away.

11:06:13 5 THE COURT: How long ago was that?

11:06:15 6 THE PROSPECTIVE JUROR: That was probably two and a
11:06:18 7 half, three years ago.

11:06:19 8 THE COURT: How was that impacted your thinking on
11:06:25 9 disability discrimination?

11:06:27 10 THE PROSPECTIVE JUROR: I know the individual before.
11:06:28 11 I would absolutely never discriminate. It wasn't at all
11:06:32 12 because of his handicap. And I see him to this day and I know
11:06:38 13 him. No hard feelings. I say hi to him.

11:06:42 14 If you work in my position sometimes employees bring
11:06:45 15 those EEO complaints and as managers as long as we are on firm
11:06:50 16 footing and make decisions based on the criteria we work it
11:06:50 17 out.

11:06:55 18 THE COURT: Anything about that case or your work in
11:06:58 19 this capacity would impact your ability to decide this case
11:07:01 20 fairly and impartially?

11:07:02 21 THE PROSPECTIVE JUROR: No.

11:07:02 22 THE COURT: Follow-up?

11:07:03 23 MS. GREENSPAN: No, Your Honor.

11:07:04 24 THE COURT: Follow-up?

11:07:05 25 MR. FOLEY: In that case did you agree with the claims

11:07:16 1 by the disabled person?

11:07:20 2 THE PROSPECTIVE JUROR: No, absolutely not.

11:07:21 3 THE COURT: That's beyond the scope.

11:07:23 4 Okay. Thank you very much.

11:07:28 5 Any motions?

11:07:29 6 MS. GREENSPAN: No.

11:07:29 7 MR. FOLEY: Yes, Your Honor. I think that the

11:07:32 8 relationship with Drexel and that he has a daughter who's

11:07:36 9 paying tuition there now any decision that he know could

11:07:41 10 effect, could cause Drexel to pay money, and I believe that

11:07:47 11 that could have some kind of effect on his daughter's tuition

11:07:50 12 or program.

11:07:50 13 THE COURT: Any response?

11:07:51 14 MS. GREENSPAN: Your Honor, we asked him questions

11:07:54 15 about whether he talked with her about her work at Drexel. He

11:07:58 16 said they do not talk about pay. He also said there is nothing

11:08:01 17 about that experience or his relationship with her that would

11:08:04 18 make it so he couldn't be fair and impartial in this case. We

11:08:08 19 would suggest the motion be denied.

11:08:08 20 THE COURT: Motion denied.

11:08:14 21 MS. GREENSPAN: Thank you.

11:08:14 22 Juror number 11.

11:08:39 23 THE COURT: Hello, Ms. Baylis. You answered two

11:08:42 24 questions and I just want to follow-up on them.

11:08:45 25 The first one have you or someone else close to you

11:08:47 1 ever been accused of discriminating against somebody at your
11:08:51 2 work place because of their sex or gender.
11:08:52 3 THE PROSPECTIVE JUROR: I said no.
11:08:53 4 THE COURT: That was no to that question?
11:08:55 5 THE PROSPECTIVE JUROR: Yeah.
11:08:56 6 THE COURT: Okay. Well, I have you also answered
11:08:59 7 question 22. Does anyone else on their paper have anything
11:09:06 8 else?
11:09:06 9 THE DEPUTY CLERK: No.
11:09:07 10 THE COURT: So 22 was have you ever served as a juror.
11:09:10 11 THE PROSPECTIVE JUROR: Yes.
11:09:11 12 THE COURT: Tell we about that.
11:09:12 13 THE PROSPECTIVE JUROR: So it was City. It was civil
11:09:13 14 case. But they settled.
11:09:23 15 THE COURT: So you as a jury did not get to deliberate
11:09:26 16 at all?
11:09:26 17 THE PROSPECTIVE JUROR: No.
11:09:27 18 THE COURT: Anything about your experience there that
11:09:28 19 would impact your ability to decide this case fairly and
11:09:28 20 impartially?
11:09:28 21 THE PROSPECTIVE JUROR: No.
11:09:33 22 THE COURT: Any follow-up?
11:09:34 23 MS. GREENSPAN: No, Your Honor.
11:09:35 24 MR. FOLEY: No, Your Honor.
11:09:37 25 THE COURT: That was it. You can have a seat. Thank

11:09:41 1 you.

11:09:42 2 MS. GREENSPAN: Your Honor, on the jury sheet she says

11:09:47 3 retired. Maybe ask her what she did do before she was retired.

11:09:55 4 THE COURT: Okay.

11:09:58 5 Juror number 11, come on back. Just one more

11:10:02 6 question.

11:10:03 7 MS. GREENSPAN: Your Honor, just as a head's up, the

11:10:03 8 next one also as a blank there.

11:10:03 9 THE COURT: Okay.

11:10:14 10 So you're retired, right?

11:10:15 11 THE PROSPECTIVE JUROR: Yes.

11:10:15 12 THE COURT: What did you retire from?

11:10:18 13 THE PROSPECTIVE JUROR: A nanny.

11:10:18 14 THE COURT: Good.

11:10:21 15 MS. GREENSPAN: Yes.

11:10:21 16 THE COURT: Thank you very much.

11:10:22 17 MR. FOLEY: Your Honor, sorry. A process question,

11:10:25 18 are preemptory challenges after?

11:10:27 19 THE COURT: After.

11:10:28 20 Any motion to strike?

11:10:29 21 MS. GREENSPAN: No, Your Honor.

11:10:30 22 MR. FOLEY: No, Your Honor.

11:10:32 23 THE COURT: Juror number 12.

11:10:47 24 Good morning. Lija.

11:10:52 25 You answered a few questions. I am just going to go

11:10:53 1 through them. And the first one is, Do you or any of your
11:10:59 2 family or friend have any connection of any kind with the
11:11:01 3 defendant, Drexel University as a student or employer.
11:11:05 4 THE PROSPECTIVE JUROR: Student.
11:11:05 5 THE COURT: Are you a student now?
11:11:07 6 THE PROSPECTIVE JUROR: I am not a student. My niece.
11:11:11 7 THE COURT: What department is she is?
11:11:12 8 THE PROSPECTIVE JUROR: One in nursing. One in
11:11:14 9 history.
11:11:15 10 THE COURT: Are they right now at Drexel?
11:11:18 11 THE PROSPECTIVE JUROR: Yes.
11:11:19 12 THE COURT: Do you talk to them about being students
11:11:21 13 at Drexel?
11:11:23 14 THE PROSPECTIVE JUROR: Just a little bit, you know.
11:11:26 15 They come over and they talk about their college life and all.
11:11:31 16 THE COURT: Do they talk to you about their
11:11:31 17 professors?
11:11:31 18 THE PROSPECTIVE JUROR: No.
11:11:35 19 THE COURT: Anything about your relationship with them
11:11:37 20 that would impact your ability to decide this case?
11:11:42 21 THE PROSPECTIVE JUROR: I think so. Maybe. But I
11:11:45 22 don't know. I can sometimes express what happened.
11:11:52 23 THE COURT: You talk about what?
11:11:54 24 THE PROSPECTIVE JUROR: I mean like a decision like
11:11:57 25 the college. Maybe. Probably not, you know. Bring up this

11:12:04 1 happened.

11:12:05 2 THE COURT: No, I am not talking about what you would

11:12:08 3 do if you hear about this case and you talk to them after this.

11:12:11 4 I am talking about up to now. They don't know you're here.

11:12:11 5 They don't know about this case.

11:12:11 6 THE PROSPECTIVE JUROR: No, no.

11:12:17 7 THE COURT: So looking at that time period which is

11:12:19 8 before today, is there anything that would impact your ability

11:12:23 9 to decide this case fairly and impartially?

11:12:30 10 THE PROSPECTIVE JUROR: Hard to make decision.

11:12:32 11 THE COURT: Why?

11:12:34 12 THE PROSPECTIVE JUROR: I mean, you know knowing all

11:12:37 13 these things. I don't know this is.

11:12:41 14 THE COURT: Help me understand a bit more.

11:12:46 15 THE PROSPECTIVE JUROR: I was like, the same situation

11:12:47 16 actually happened to me also my previous job because I feel

11:12:51 17 like I didn't answer that question yes but now it's coming back

11:12:56 18 to me, you know, because I feel like I was a victim because I

11:13:05 19 was doing two job and then I realize that they are because it

11:13:15 20 was D 33 and D 37, they were paying me D 33 they are supposed

11:13:20 21 to give me 37, but when I question them they say, they are like

11:13:26 22 you just joined the job it's kind of like. Then I noticed that

11:13:31 23 people who work my position in other building the same was

11:13:37 24 making more money.

11:13:38 25 THE COURT: Where were you working when this happened?

11:13:39 1 THE PROSPECTIVE JUROR: This is nursing field. It was
11:13:45 2 in Genesis. Now I'm no longer with Genesis.
11:13:51 3 THE COURT: Would that impact that thing you just
11:13:52 4 talked about, would that impact ability to decide this case
11:13:52 5 fairly and impartially?
11:13:56 6 THE PROSPECTIVE JUROR: It is.
11:13:57 7 THE COURT: Follow-up on that?
11:13:58 8 MS. GREENSPAN: No, Your Honor.
11:14:01 9 MR. FOLEY: No, Your Honor.
11:14:02 10 THE COURT: Okay. So then you also answered yes to
11:14:06 11 the question have you or someone close to you ever been
11:14:13 12 employed as a teacher.
11:14:16 13 THE PROSPECTIVE JUROR: My family friend, U Penn. He
11:14:21 14 was a math professor.
11:14:23 15 THE COURT: Did you talk to him about that?
11:14:23 16 THE PROSPECTIVE JUROR: No.
11:14:28 17 THE COURT: Did you talk to him about his pay?
11:14:28 18 THE PROSPECTIVE JUROR: No.
11:14:30 19 THE COURT: Anything about that that would impact your
11:14:30 20 ability to decide this case fairly and impartially?
11:14:35 21 THE PROSPECTIVE JUROR: No. That is in the family. I
11:14:36 22 don't talk about that.
11:14:37 23 THE COURT: Any follow-up?
11:14:37 24 MS. GREENSPAN: I didn't hear. Who was the math
11:14:39 25 professor?

11:14:40 1 THE COURT: It' her uncle. Right?

11:14:43 2 THE PROSPECTIVE JUROR: Yeah it's a family member.

11:14:45 3 THE COURT: University of Pennsylvania. Any

11:14:49 4 follow-up?

11:14:49 5 MR. FOLEY: Is he still a math professor there?

11:14:52 6 THE PROSPECTIVE JUROR: I think so. I am not close to

11:14:54 7 him.

11:14:54 8 THE COURT: The next question you answered yes to have

11:14:59 9 you or a close family member ever been employed by a University

11:14:59 10 or college.

11:15:02 11 THE PROSPECTIVE JUROR: Yes, same one.

11:15:03 12 THE COURT: Finally, have you ever supervised other

11:15:10 13 employees at work.

11:15:12 14 THE PROSPECTIVE JUROR: Yes. Part of my job that is

11:15:15 15 to a supervise. I am currently assistant director of nursing.

11:15:22 16 THE COURT: Any follow-up?

11:15:23 17 MS. GREENSPAN: I didn't hear.

11:15:23 18 THE COURT: She supervises other people at work. She

11:15:26 19 is the assistant director.

11:15:28 20 THE PROSPECTIVE JUROR: Yes.

11:15:29 21 MS. GREENSPAN: How many individuals is it that you

11:15:33 22 supervise?

11:15:34 23 THE PROSPECTIVE JUROR: Like a hundred.

11:15:37 24 MS. GREENSPAN: Of the 100 people that you

11:15:38 25 supervise --

11:15:40 1 THE PROSPECTIVE JUROR: In the shift might be like 50.

11:15:46 2 MS. GREENSPAN: Is it a mix of men and women?

11:15:49 3 THE PROSPECTIVE JUROR: Yes.

11:15:50 4 MS. GREENSPAN: Thank you.

11:15:51 5 THE COURT: Any follow-up for you?

11:15:52 6 MR. FOLEY: No.

11:16:00 7 THE COURT: Okay. Thank you very much. You can have

11:16:02 8 a seat.

11:16:05 9 Any motions?

11:16:05 10 MS. GREENSPAN: Yes, Your Honor. We move to strike,

11:16:07 11 specifically with regard to the fact she said the exact same

11:16:11 12 thing happened to me in my previous job, she was underpaid, she

11:16:15 13 questioned it, she does not think she can be fair. She thinks

11:16:18 14 it can impact what she's doing here. We move to strike.

11:16:24 15 MR. FOLEY: I have no objection.

11:16:25 16 THE COURT: Struck.

11:16:31 17 Juror number 13.

11:16:50 18 I am just going to go through the questions that you

11:16:52 19 answered yes to. First of all you answered yes to a question

11:16:55 20 of have you ever had a job where you were responsible for

11:16:58 21 setting the amount of money that other employees were paid for

11:17:00 22 their work.

11:17:01 23 THE PROSPECTIVE JUROR: Yes.

11:17:01 24 THE COURT: Tell me about that.

11:17:03 25 THE PROSPECTIVE JUROR: I own a shop. I hire people,

11:17:06 1 fire people. I managed another shop later, set rates and so
11:17:09 2 on.
11:17:10 3 THE COURT: What kind of shop?
11:17:11 4 THE PROSPECTIVE JUROR: Automotive restoration.
11:17:14 5 THE COURT: Did you employee both men and women?
11:17:17 6 THE PROSPECTIVE JUROR: Yes. Women are a little more
11:17:19 7 rare in that field but we did have a few.
11:17:21 8 THE COURT: Did any woman ever complain to you about
11:17:23 9 their wages?
11:17:23 10 THE PROSPECTIVE JUROR: No.
11:17:28 11 THE COURT: Did you set peoples' wages?
11:17:30 12 THE PROSPECTIVE JUROR: Yeah. I set the starting wage
11:17:34 13 and the owner when he gave raises out he would go from there.
11:17:39 14 THE COURT: The starting wages were they always the
11:17:42 15 same for any given job?
11:17:44 16 THE PROSPECTIVE JUROR: No they vary very based on
11:17:45 17 their experience and jobs and so on. Do you want me to get
11:17:49 18 into that a little might more with the two women that I hired?
11:17:49 19 THE COURT: Go ahead.
11:17:52 20 THE PROSPECTIVE JUROR: The one was more of a trainee
11:17:55 21 so she had a training wages. The other one was a much more
11:17:59 22 experienced person, came in and she was a higher wage.
11:18:02 23 THE COURT: Did either of them complain to you by
11:18:06 24 their wages?
11:18:06 25 THE PROSPECTIVE JUROR: No.

11:18:07 1 THE COURT: Anything about that experience that would
11:18:09 2 impact your ability to decide this case fairly and impartially?
11:18:15 3 THE PROSPECTIVE JUROR: No.
11:18:15 4 MR. FOLEY: Follow-up?
11:18:16 5 MS. GREENSPAN: No, Your Honor.
11:18:17 6 THE COURT: Follow-up?
11:18:18 7 MR. FOLEY: No.
11:18:18 8 THE COURT: Okay. Then you answered yes to the
11:18:21 9 question have you ever supervised other employees at work. Is
11:18:25 10 that the same thing?
11:18:26 11 THE PROSPECTIVE JUROR: Yes.
11:18:26 12 THE COURT: And then you also answered yes to the
11:18:29 13 question have you ever served as a juror?
11:18:33 14 THE PROSPECTIVE JUROR: That one I think I misheard.
11:18:36 15 I was a witness of a Grand Jury trial, I was not on a jury.
11:18:41 16 THE COURT: I think you answered yes to 23, which is,
11:18:43 17 have you or anyone in your immediate family ever participated
11:18:47 18 in a lawsuit.
11:18:48 19 THE PROSPECTIVE JUROR: Yes. I have participated.
11:18:52 20 THE COURT: So I have got two things. You sued people
11:18:57 21 and you participated in a grand jury, right?
11:18:58 22 THE PROSPECTIVE JUROR: I was a witness, not a juror.
11:19:01 23 I think I heard I wrong.
11:19:04 24 THE COURT: Let's talk about you suing people. Who
11:19:06 25 have you sued?

11:19:09 1 THE PROSPECTIVE JUROR: A guy who took my money from
11:19:12 2 doing my bathroom and never finished it.
11:19:14 3 THE COURT: What happened in that lawsuit?
11:19:17 4 THE PROSPECTIVE JUROR: He never showed up. It was
11:19:18 5 that simple. I got a judgment but I never got any money.
11:19:23 6 THE COURT: When was that process?
11:19:26 7 THE PROSPECTIVE JUROR: Three years about. About
11:19:27 8 three years ago.
11:19:28 9 THE COURT: Anything about that process that would
11:19:31 10 impact your ability to decide this case fairly and impartially?
11:19:33 11 THE PROSPECTIVE JUROR: No. I understand it's I got
11:19:35 12 to get the money from him. I got justice as far as legal is
11:19:40 13 concerned.
11:19:41 14 THE COURT: So you think that the judgment was
11:19:45 15 justice. You just couldn't get the money?
11:19:48 16 THE PROSPECTIVE JUROR: Yeah. The Court can't. I'd
11:19:50 17 have to go and get the money.
11:19:53 18 THE COURT: What about you were witness to a Grand
11:19:56 19 Jury, tell me about that to the extent you can.
11:20:02 20 THE PROSPECTIVE JUROR: It was so long ago.
11:20:02 21 THE COURT: How long ago was it?
11:20:04 22 THE PROSPECTIVE JUROR: 30, 35 years ago.
11:20:06 23 THE COURT: Tell me about it.
11:20:08 24 THE PROSPECTIVE JUROR: It was a drug dealer. The
11:20:08 25 whole thing was five minutes at most.

11:20:21 1 THE COURT: Do you know whether he was indicted?

11:20:23 2 THE PROSPECTIVE JUROR: Yeah. He was guilty.

11:20:24 3 THE COURT: Do you know whether he went to jail?

11:20:27 4 THE PROSPECTIVE JUROR: Yeah.

11:20:27 5 THE COURT: Anything about that experience that would

11:20:30 6 impact your ability to decide this case fairly and impartially?

11:20:33 7 THE PROSPECTIVE JUROR: Not that I know of.

11:20:34 8 THE COURT: Not that you know of.

11:20:36 9 THE PROSPECTIVE JUROR: I mean nothing happened in

11:20:38 10 that. I was younger kid and more scared to death than anything

11:20:42 11 because he was a power figure what I understand and all that

11:20:44 12 other stuff. But I lived this long, so...

11:20:48 13 THE COURT: There were no effects of that testimony?

11:20:51 14 THE PROSPECTIVE JUROR: No.

11:20:51 15 THE COURT: Follow-up?

11:20:52 16 MS. GREENSPAN: No.

11:20:52 17 THE COURT: Follow-up?

11:20:53 18 MR. FOLEY: No.

11:21:01 19 THE COURT: That's it. Thank you.

11:21:03 20 Any motions?

11:21:08 21 MS. GREENSPAN: Nothing.

11:21:08 22 THE COURT: Any motions, plaintiff?

11:21:09 23 MR. FOLEY: Yes. Just in the sense that he supervised

11:21:18 24 women in an industry where there were very few women working

11:21:23 25 there and Drexel's been known as an engineer school that's

11:21:29 1 mostly male dominated, I wonder if that might have some effect.
11:21:34 2 MS. GREENSPAN: He testified that the women are more
11:21:37 3 rare in the field but that he has hired two women and it would
11:21:41 4 have no impact on his decision here.
11:21:43 5 THE COURT: Both denied.
11:21:48 6 Juror number 14.
11:21:48 7 THE COURT: Hello, Ms. Gasho.
11:21:48 8 THE PROSPECTIVE JUROR: I'm Jennifer Gasho.
11:22:09 9 THE COURT: I am just going to go through the
11:22:10 10 questions that you answered yes to and let's first turn to you.
11:22:17 11 You've had a job where you were responsible for setting the
11:22:19 12 amount of money that other employees were getting paid.
11:22:19 13 THE PROSPECTIVE JUROR: Yes.
11:22:23 14 THE COURT: Tell me about that.
11:22:24 15 THE PROSPECTIVE JUROR: I am a service manger. I
11:22:25 16 first was a general manager for my family-owned company, so my
11:22:29 17 brother and I decided what the salary of the employees was and
11:22:33 18 the raises they would get.
11:22:35 19 We sold that company and I work for another company
11:22:37 20 right now. I am ready retire in 6 months. I have a group of
11:22:40 21 people that work for me under my service repair department that
11:22:44 22 I do have a say on what they get paid.
11:22:47 23 THE COURT: So let's talk about -- what business do
11:22:49 24 you work in?
11:22:52 25 THE PROSPECTIVE JUROR: Industrial pumps and blowers.

11:22:53 1 THE COURT: That was also your family business?

11:22:54 2 THE WITNESS: It was. We did the air side. This

11:22:57 3 company does the liquid side. We sold.

11:23:00 4 THE COURT: You sold to that company?

11:23:02 5 THE PROSPECTIVE JUROR: Yes.

11:23:03 6 THE COURT: So let's talk about the first your family

11:23:07 7 company. You set salaries.

11:23:07 8 THE PROSPECTIVE JUROR: Yes, we did.

11:23:12 9 THE COURT: Did you have both male and female

11:23:15 10 employees.

11:23:15 11 THE PROSPECTIVE JUROR: Yes.

11:23:16 12 THE COURT: Was there any complaint from any men or

11:23:19 13 women about salary differentials?

11:23:19 14 THE PROSPECTIVE JUROR: No.

11:23:22 15 THE COURT: What about when you moved to being an

11:23:25 16 employee at this next company?

11:23:25 17 THE PROSPECTIVE JUROR: No.

11:23:28 18 THE COURT: And both men and women were there?

11:23:31 19 THE PROSPECTIVE JUROR: Yeah. Mostly men.

11:23:33 20 THE COURT: Would your work in your own family company

11:23:36 21 and in this new company impact your ability to decide this case

11:23:40 22 fairly and impartially?

11:23:43 23 THE PROSPECTIVE JUROR: No.

11:23:43 24 THE COURT: Follow-up?

11:23:44 25 MS. GREENSPAN: You mentioned there were no complaints

11:23:46 1 about salaries. Were there ever any lawsuits?

11:23:46 2 THE PROSPECTIVE JUROR: No.

11:23:52 3 THE COURT: Follow-up?

11:23:52 4 MR. FOLEY: Were the men paid more than the women?

11:23:58 5 THE COURT: Beyond the scope.

11:24:01 6 Next you said, the question was have you ever

11:24:06 7 supervised other employees. Is that saying the same thing?

11:24:09 8 THE PROSPECTIVE JUROR: Yes.

11:24:12 9 THE COURT: Any follow-up on that?

11:24:13 10 MS. GREENSPAN: No, Your Honor.

11:24:14 11 THE COURT: Okay. Then have ever had any training in

11:24:21 12 connection with compliance with antidiscrimination laws?

11:24:26 13 THE PROSPECTIVE JUROR: Yes. In my previous positions

11:24:28 14 I was manager of a retail store and they did that.

11:24:32 15 THE COURT: How long ago was that?

11:24:34 16 THE PROSPECTIVE JUROR: That was a long time ago.

11:24:36 17 THE COURT: 10, 15, 20?

11:24:36 18 THE PROSPECTIVE JUROR: 40.

11:24:40 19 THE COURT: And do you recall anything about the

11:24:43 20 discrimination training you received.

11:24:46 21 THE PROSPECTIVE JUROR: No. But we did do extensive

11:24:49 22 training.

11:24:49 23 THE COURT: Any discussion about pay, equal pay?

11:24:53 24 THE PROSPECTIVE JUROR: Yeah. Here was always a part

11:24:55 25 of equal pay.

11:24:55 1 THE COURT: In that time period when you were working
11:24:57 2 in retail, any complaints about women getting paid differently
11:24:57 3 than men?

11:24:57 4 THE PROSPECTIVE JUROR: No.

11:25:02 5 THE COURT: Would that impact on your ability to
11:25:05 6 decide this case fairly and impartially?

11:25:07 7 THE PROSPECTIVE JUROR: No.

11:25:07 8 THE COURT: Follow-up?

11:25:08 9 MS. GREENSPAN: No, Your Honor.

11:25:09 10 MR. FOLEY: I just didn't hear your answer. Is it
11:25:12 11 discussions about pay. Was that it? Discussion about equal
11:25:16 12 pay.

11:25:18 13 THE COURT: She said there were discussions in the
11:25:21 14 training about equal pay.

11:25:22 15 THE PROSPECTIVE JUROR: Yes, there was.

11:25:24 16 Always equal opportunity. That was always important
11:25:27 17 in any position I was in.

11:25:29 18 THE COURT: Then you served as a juror.

11:25:31 19 THE PROSPECTIVE JUROR: Yes, I did.

11:25:32 20 THE COURT: Tell me about that.

11:25:34 21 THE PROSPECTIVE JUROR: It was in court in Chester
11:25:36 22 County. It was -- I was an alternate. So I sat on the jury.
11:25:42 23 It was a case of slip and fall and then I got dismissed because
11:25:48 24 I was an alternate.

11:25:51 25 THE COURT: Anything about that experience would that

11:25:53 1 impact your ability to decide this case fairly and impartially?

11:25:58 2 THE PROSPECTIVE JUROR: No.

11:25:58 3 THE COURT: Follow-up?

11:25:59 4 MS. GREENSPAN: No.

11:26:00 5 THE COURT: Follow-up?

11:26:01 6 MR. FOLEY: No, Your Honor.

11:26:03 7 THE COURT: Okay. Thank you.

11:26:05 8 Any motions?

11:26:05 9 MS. GREENSPAN: No, Your Honor.

11:26:06 10 MR. FOLEY: No, Your Honor.

11:26:08 11 THE COURT: Juror number 15.

11:26:08 12 Good morning.

11:26:32 13 I am just going to follow up on a few of the questions

11:26:35 14 you answered yes to. And the first was, have you or someone

11:26:39 15 else close to you ever been employed as a teacher.

11:26:42 16 THE PROSPECTIVE JUROR: Yes.

11:26:42 17 THE COURT: Tell me about that.

11:26:43 18 THE PROSPECTIVE JUROR: So my brother-in-law was a in

11:26:45 19 physics for Southern Valley School District. His father was a

11:26:51 20 professor at Le high University. And my friend Jessica Sommer

11:26:57 21 she is a teacher at Allentown school district.

11:26:59 22 THE COURT: The father of your friend, what subject

11:27:02 23 matter did he teach?

11:27:03 24 THE PROSPECTIVE JUROR: Physics. Both of them

11:27:06 25 physics. And my friend Jessica, she teaches middle school.

11:27:14 1 THE COURT: Do you talk to them about their work?

11:27:18 2 THE PROSPECTIVE JUROR: Very rarely if at all.

11:27:22 3 THE COURT: To you talk to them about pay?

11:27:24 4 THE PROSPECTIVE JUROR: No. No. I think the only

11:27:25 5 time we talked was when they went through arbitration for a new

11:27:31 6 contract. That was my brother-in-law. I guess you would

11:27:37 7 consider that pay.

11:27:39 8 THE COURT: Did he talk to you about the arbitration

11:27:40 9 itself?

11:27:41 10 THE PROSPECTIVE JUROR: No, not specifically.

11:27:43 11 THE COURT: Did you have any discussions was him about

11:27:45 12 the pay issues that were raised in the arbitration?

11:27:49 13 THE PROSPECTIVE JUROR: Not specifically. Just

11:27:50 14 basically about what the contract they were looking for as far

11:27:57 15 as pay raises. They went to the union. But nothing

11:28:00 16 specifically about how much he was getting or anything like

11:28:00 17 that.

11:28:05 18 THE COURT: Anything about those discussions that

11:28:07 19 would impact your ability to decide this case fairly and

11:28:07 20 impartially?

11:28:07 21 THE PROSPECTIVE JUROR: No.

11:28:11 22 THE COURT: Follow-up?

11:28:12 23 MS. GREENSPAN: Just to follow-up, the arbitration,

11:28:14 24 are you talking about a union event?

11:28:16 25 THE PROSPECTIVE JUROR: Union arbitration, yes. Union

11:28:18 1 contract was up so they had to go to arbitration to try to
11:28:22 2 figure out, you know, because actually they went on strike.
11:28:27 3 They did go on strike.
11:28:29 4 THE COURT: Mr. Foley, follow-up?
11:28:31 5 MR. FOLEY: No follow-up.
11:28:32 6 THE COURT: Next question. You had a job where you
11:28:35 7 were responsible for setting the amount of money that other
11:28:39 8 employees were paid.
11:28:40 9 THE PROSPECTIVE JUROR: Yes.
11:28:41 10 THE COURT: Tell me about that.
11:28:42 11 THE PROSPECTIVE JUROR: I was in the process over
11:28:44 12 hiring people and also determining the rate of pay.
11:28:48 13 In my previous job, not the one I am in now, I
11:28:52 14 determined the rate of pay for truck drivers. Those were class
11:28:58 15 A and B. I would be in the interview process with them. I
11:29:05 16 would determine their pay depending on experience.
11:29:10 17 THE COURT: So these were truck drivers.
11:29:13 18 THE PROSPECTIVE JUROR: Truck drivers, yup.
11:29:14 19 THE COURT: Did you hire both male and female truck
11:29:17 20 drivers?
11:29:17 21 THE PROSPECTIVE JUROR: We didn't have any female
11:29:19 22 truck drivers, just all male.
11:29:21 23 THE COURT: And if you had female truck drivers would
11:29:23 24 the process have been the same?
11:29:25 25 THE PROSPECTIVE JUROR: The process would be exactly

11:29:26 1 the same, yes.

11:29:28 2 THE COURT: Anything about that experience that would

11:29:30 3 impact your ability to decide this case?

11:29:34 4 THE PROSPECTIVE JUROR: No.

11:29:34 5 THE COURT: Any follow-up?

11:29:35 6 MS. GREENSPAN: I couldn't hear. You said something

11:29:37 7 about doing reviews.

11:29:40 8 THE PROSPECTIVE JUROR: Interviews for hiring process.

11:29:43 9 MS. GREENSPAN: Did you say that HR was involved with

11:29:46 10 that?

11:29:46 11 THE PROSPECTIVE JUROR: We didn't necessarily have HR

11:29:48 12 in hand. So I wasn't in human resource but we would look over

11:29:54 13 the resumes and applications and we determine who we would

11:29:58 14 interview determined on the experience.

11:30:01 15 MS. GREENSPAN: Thank you.

11:30:02 16 THE COURT: Mr. Foley.

11:30:03 17 MR. FOLEY: No follow-up.

11:30:04 18 THE COURT: Then we have the next question, which is,

11:30:09 19 have you ever supervised other employees at work.

11:30:12 20 THE PROSPECTIVE JUROR: Yes.

11:30:12 21 THE COURT: The same issue or different issue?

11:30:14 22 THE PROSPECTIVE JUROR: Supervised other employees?

11:30:16 23 Yeah, so my teams range anywhere from one to over in 40 people.

11:30:25 24 THE COURT: Remind me what it is you do again?

11:30:28 25 THE PROSPECTIVE JUROR: Currently I work for

11:30:28 1 fellowship community as a central supply manager.

11:30:36 2 THE COURT: Tell me about that work.

11:30:41 3 THE PROSPECTIVE JUROR: Central supply. I do

11:30:41 4 procurement, inventory for the school and nursing and personal

11:30:46 5 care of the facility.

11:30:47 6 THE COURT: Do you work with the individual employees

11:30:49 7 on pay?

11:30:51 8 THE PROSPECTIVE JUROR: No, not at all.

11:30:51 9 THE COURT: Any follow-up?

11:30:52 10 MS. GREENSPAN: No, Your Honor.

11:30:53 11 MR. FOLEY: No, Your Honor.

11:30:55 12 THE COURT: The final question you answered yes to was

11:30:58 13 have you had any training in connection with antidiscrimination

11:31:02 14 laws.

11:31:03 15 THE PROSPECTIVE JUROR: Yes. Yes, every year.

11:31:05 16 THE COURT: Okay. And when you say every year, how

11:31:09 17 long are those training sessions?

11:31:11 18 THE PROSPECTIVE JUROR: Training sessions, most of the

11:31:13 19 training sessions are on-line actually. We submit them

11:31:17 20 on-line, complete the questionnaires, pass or fail.

11:31:22 21 THE COURT: Have you been trained on the Equal Pay

11:31:22 22 Act.

11:31:29 23 THE PROSPECTIVE JUROR: That one doesn't sound

11:31:31 24 familiar.

11:31:34 25 THE COURT: Did you receive any training on

11:31:35 1 differentials or lack thereof between men and women and pay.

11:31:45 2 THE PROSPECTIVE JUROR: No. We just -- I remember the

11:31:47 3 training basically was just equal rights. It doesn't matter

11:31:53 4 who they are or how they are. You can't take them into

11:31:58 5 consideration when you're in the interview process or hiring

11:32:03 6 process.

11:32:03 7 THE COURT: And would your work there impact your

11:32:05 8 ability to decide this case fairly and impartially?

11:32:08 9 THE PROSPECTIVE JUROR: No.

11:32:08 10 THE COURT: Follow-up?

11:32:09 11 MR. FOLEY: No, Your Honor.

11:32:10 12 THE COURT: Follow-up?

11:32:11 13 MR. FOLEY: No, Your Honor.

11:32:11 14 THE COURT: Thank you very much. You may have a seat.

11:32:13 15 Any motions?

11:32:15 16 MS. GREENSPAN: None.

11:32:16 17 MR. FOLEY: No.

11:32:17 18 THE COURT: Magic number was what?

11:32:20 19 THE LAW CLERK: It was 14. Now it will be 16. We had

11:32:25 20 2 strikes.

11:32:26 21 THE COURT: Juror number 16.

11:32:37 22 Juror number 16, hold on.

11:32:37 23 You didn't answer nay questions, right?

11:32:46 24 THE PROSPECTIVE JUROR: No, not at all.

11:32:46 25 THE COURT: So 16 is out.

11:32:54 1 The number is 14. 8 plus 6, that's 14. We have 2
11:32:55 2 strikes. So now we put a line under 16 and that is our group
11:33:00 3 to choose from.
11:33:00 4 Everyone agree that is the case?
11:33:08 5 MS. GREENSPAN: I believes so, Your Honor. I just
11:33:10 6 want to double check first.
11:33:12 7 Only two that were struck.
11:33:16 8 THE COURT: We struck 8 and we struck 12. 8 jurors.
11:33:25 9 3 preemptories each.
11:33:27 10 That takes us to 14. So the line is under 16, right?
11:33:31 11 MS. GREENSPAN: Yes.
11:33:31 12 THE COURT: Confirm please.
11:33:33 13 MR. FOLEY: I believe that's correct.
11:33:37 14 He was number 15, right?
11:33:40 15 THE COURT: He was number 15. Number 16 answered no
11:33:43 16 questions.
11:33:44 17 MR. FOLEY: Okay.
11:33:45 18 THE COURT: So I am giving you this list. As I said I
11:33:50 19 was going to do it at 12. So we will break a little bit before
11:33:53 20 12, but obviously if you can get it done before then, I am not
11:33:56 21 saying you have to, but we can maybe we can move straight into
11:33:56 22 it afterwards.
11:34:01 23 You strike alternatively one then the other. Pass it
11:34:05 24 between yourselves.
11:34:07 25 MS. GREENSPAN: May we have -- I am not familiar with

11:34:08 1 Your Honor's procedures. May we have a few minutes.

11:34:13 2 THE COURT: You can do what you like. I am going to

11:34:16 3 tell them you are going to be picking them and they can talk

11:34:19 4 while you're doing it. And I am going to explain what your's

11:34:21 5 doing. And if you need to take 5 minutes to think, then you're

11:34:25 6 going to take 5 minutes to think.

11:34:25 7 MS. GREENSPAN: Thank you.

11:34:59 8 (Sidebar concluded.)

11:34:59 9 THE COURT: Members of the panel, we are now moving

11:35:00 10 into the next phase of jury selection. What the lawyers are

11:35:03 11 now going to do is to evaluate the information that they have

11:35:08 12 received and determine who is on the panel.

11:35:10 13 The same rules continue to apply. They will be

11:35:13 14 passing documents between them. You can continue to have any

11:35:18 15 conversation that you wish as long as it has nothing to do with

11:35:21 16 this case, nothing to do with the people here, nothing to do

11:35:23 17 with these type of cases.

11:35:26 18 I have something to do at 12 so we may break about

11:35:30 19 5 minutes before 12. At that point we will have lunch for an

11:35:34 20 hour. I will tell you right now that it's critical during the

11:35:40 21 lunch period that you talk to no one about this case, not your

11:35:46 22 family, not your employer, and also you must not communicate

11:35:51 23 about this case on any kind of the social media. You must not

11:35:55 24 do any kind of research on social media. It is critical that

11:35:59 25 the only thing you learn about this case is in the 4 walls of

11:36:02 1 this court.

11:36:16 2 If you see anyone in the corridor that you see here

11:36:19 3 today, any of the parties, any of the lawyers, they are not

11:36:23 4 allowed to talk to you. So if they walk the other way, do not

11:36:27 5 think they are rude. They are just doing what they have to do.

11:36:30 6 And similarly if you are walking around the courthouse

11:36:34 7 or outside, if anyone tries to stop you and talk to you about

11:36:38 8 this case, you are absolutely not allowed to talk.

11:36:41 9 So with that I am going to stop talking, the lawyers

11:36:43 10 will start selecting and you can have your conversations as you

11:36:47 11 wish. Thank you.

11:53:07 12 THE COURT: Counsel, come to sidebar.

11:53:07 13 (Sidebar).

11:53:35 14 THE COURT: So as I said I have to break for my noon

11:53:38 15 meeting. How are you doing in selection? Where are you? How

11:53:42 16 many strikes, exercises so forth.

11:53:44 17 MR. FOLEY: I'm just finishing up I think.

11:53:48 18 MS. GREENSPAN: We haven't received the paper to make

11:53:49 19 any strikes yet.

11:53:55 20 THE COURT: Oh.

11:53:58 21 MS. GREENSPAN: We are waiting for plaintiff to strike

11:54:00 22 and then to us.

11:54:00 23 THE COURT: Plaintiff strikes then goes back.

11:54:05 24 MR. FOLEY: Oh. Okay.

11:54:05 25 THE COURT: Why don't you talk about that over lunch.

11:54:08 1 Also you have to think about stipulations over lunch. I think
11:54:12 2 you were going to provide me with stipulations.

11:54:15 3 MS. GREENSPAN: We filed those yesterday, Your Honor.
11:54:17 4 They are identical to what you had before except for the date
11:54:21 5 and number of students.

11:54:22 6 THE COURT: Then you are going to tell me do you want
11:54:24 7 to read them, you want me to read them, when do you want me to
11:54:27 8 read them, when do you want to read them, all that kind of
11:54:28 9 stuff, just decide that.

11:54:29 10 And then also you are going provide me with an exhibit
11:54:32 11 list with all the authentications, foundations, stips. You got
11:54:35 12 that?

11:54:36 13 MS. GREENSPAN: Yes. We will provide you with a copy.

11:54:38 14 THE COURT: Just get to it to Nelson.

11:54:40 15 MS. GREENSPAN: Yes.

11:54:40 16 THE COURT: Okay. Great.

11:54:43 17 (Sidebar concluded.)

11:54:43 18 Members of the panel, as I said I am going to have to
11:54:52 19 get off the bench now. We will be back at one and start the
11:54:56 20 process. And I think the process will be completed shortly
11:55:00 21 thereafter at which point we will seat the jury, at which point
11:55:05 22 we will go into jury instructions and then openings. But I
11:55:10 23 will see you in an hour. Thank you very much.

11:55:10 24 (Lunch recess.)

01:11:20 25 THE COURT: So you finished your preemptories? Yes,

01:11:23 1 Your Honor.

01:11:23 2 MS. GREENSPAN: Yes, Your Honor.

01:11:24 3 THE COURT: I am going to go through and mark the

01:11:28 4 juror numbers and you are going to tell me when I do it with

01:11:33 5 respect to each one whether in fact I am correct.

01:11:37 6 Panel number one is juror number one, correct?

01:11:40 7 MS. GREENSPAN: Correct.

01:11:42 8 MR. FOLEY: Yes.

01:11:42 9 THE COURT: Panel number 2 is juror number 2?

01:11:49 10 MS. GREENSPAN: Correct.

01:11:51 11 MR. FOLEY: Yes.

01:11:52 12 THE COURT: Panel number 3 is juror number 3?

01:11:55 13 MS. GREENSPAN: Correct.

01:11:55 14 MR. FOLEY: Yes.

01:11:56 15 THE COURT: Panel number 4 is juror number 4?

01:11:58 16 MS. GREENSPAN: Correct.

01:11:59 17 MR. FOLEY: Yes.

01:12:00 18 THE COURT: Panel number 5 is juror number 5?

01:12:04 19 MS. GREENSPAN: Correct.

01:12:04 20 MR. FOLEY: Yes.

01:12:05 21 THE COURT: Panel number 6 is juror number 6?

01:12:08 22 MS. GREENSPAN: Correct.

01:12:09 23 MR. FOLEY: Yes.

01:12:10 24 THE COURT: Panel number 7 is juror number 10, right

01:12:22 25 or?

01:12:22 1 MS. GREENSPAN: No, 10 was struck.

01:12:25 2 THE COURT: 14 is number 7, right?

01:12:27 3 MS. GREENSPAN: Yes.

01:12:27 4 THE COURT: And 15 is 8, correct?

01:12:30 5 MS. GREENSPAN: Yes.

01:12:31 6 THE COURT: Okay. So we have a panel.

01:12:35 7 1, 2, 3, 4, 5, 6, 14 and 15.

01:12:41 8 Parties agree that is in fact the jury?

01:12:43 9 MS. GREENSPAN: Yes.

01:12:44 10 THE COURT: Okay. Anything else before I seat them.

01:12:47 11 MS. GREENSPAN: No, Your Honor.

01:13:12 12 THE COURT: If I call your number you will rise and

01:13:14 13 Mr. Malave will seat you in the jury box.

01:13:19 14 Juror number 1, juror number 2, juror number 3, juror

01:13:53 15 number 4, juror number 5, juror number 6, juror number 14,

01:14:34 16 juror number 15.

01:15:02 17 Those of you who are remaining in the pews, you have

01:15:05 18 not been selected for this trial. I want to thank you however

01:15:08 19 for the service that you have done. Just by being here and

01:15:12 20 being part of the voir dire panel you have helped us in doing

01:15:16 21 justice and appreciate that and appreciate your time, also

01:15:19 22 appreciation your focus and your commitment as we went through

01:15:22 23 the process.

01:15:23 24 Do they want everyone back down?

01:15:26 25 THE DEPUTY CLERK: No. They are free to go and you

01:15:29 1 don't have to call in tomorrow.

01:15:36 2 THE PROSPECTIVE JUROR: We have to come back?

01:15:36 3 THE COURT: No. You are dismissed. You've done your

01:15:38 4 job. Thank you.

01:16:14 5 (Prospective jurors exit.)

01:16:14 6 THE COURT: Mr. Malave, can you swear the panel.

01:16:19 7 THE DEPUTY CLERK: Panel please rise and raise your

01:16:22 8 right hand.

01:16:46 9 (Jury, sworn.)

01:16:46 10 THE COURT: Thank you. What we're going to do now is

01:16:50 11 you're going to go back into the jury room and Mr. Malave will

01:16:54 12 get your contact information.

01:16:55 13 The lawyers are going to switch so that they are

01:16:59 14 facing toward the bench. Then the moment you come back I will

01:17:02 15 give you preliminary jury instructions and then the plaintiff

01:17:05 16 will give you his opening and then the defense will give their

01:17:09 17 opening.

01:17:38 18 (Jury exits.)

01:17:38 19 THE COURT: See you in 5.

01:26:03 20 Bring in the jury.

01:26:03 21 (Jury enters.)

01:16:20 22 THE DEPUTY CLERK: Panel, please rise and raise your

01:16:22 23 right hand.

01:16:46 24 (Jury, sworn.)

01:16:46 25 THE COURT: Thank you. What we're going to do now is

01:16:50 1 you're going to go back into the jury room and Mr. Malave will
01:16:54 2 get your contact information. The lawyers are going to switch
01:16:57 3 so that they are facing towards the bench. And then the moment
01:17:01 4 you come back I will give you preliminary jury instructions,
01:17:05 5 and then the plaintiff will give you his opening and then the
01:17:07 6 defense will give their opening.

01:17:38 7 THE DEPUTY CLERK: All rise. Please follow me.

01:17:38 8 (Jury exits the courtroom.)

01:17:38 9 THE COURT: See you in five.

01:26:02 10 (Brief recess.)

01:26:02 11 THE COURT: Bring in the jury.

01:26:02 12 THE DEPUTY CLERK: All rise for the jury.

01:27:37 13 (Jury enters the courtroom.)

01:27:37 14 THE COURT: Be seated. Members of the jury, now that
01:27:39 15 you have been selected and sworn, I have the following
01:27:42 16 preliminary instructions for your guidance as jurors in this
01:27:45 17 case:

01:27:45 18 You will hear the evidence, decide what the facts are,
01:27:49 19 and then apply those facts to the law that I will give to you.
01:27:53 20 You and only you will be the judges of the facts. You will
01:27:58 21 have to decide what happened. I play no part in judging the
01:28:03 22 facts.

01:28:03 23 You should not take anything I may say or do during
01:28:06 24 the trial as indicating what I think of the evidence or what
01:28:11 25 your verdict should be. My role is to be judge of the law. I

01:28:15 1 make whatever legal decisions have to be made during the course
01:28:18 2 of the trial, and I will explain to you the legal principles
01:28:21 3 that must guide you in your decisions. You must follow that
01:28:24 4 law whether you agree with it or not.

01:28:27 5 Now, this case is brought under a federal law called
01:28:31 6 the Equal Pay Act, which is 29 U.S.C. 206(d)(1). This law,
01:28:38 7 which was enacted to remedy pay discrimination based on sex, is
01:28:44 8 meant to provide a remedy for plaintiffs who can demonstrate
01:28:47 9 that they have been paid less than a similarly situated
01:28:52 10 colleague of a different sex.

01:28:54 11 In this case, prior to this trial, the Court
01:28:59 12 determined that Drexel was liable for having violated the Equal
01:29:04 13 Pay Act. This means that the plaintiff, Professor Piety, has
01:29:09 14 demonstrated that at least one male employee was paid more than
01:29:12 15 her for performing equal work, which is work of substantially
01:29:17 16 equal skill, effort and responsibility performed under similar
01:29:19 17 working conditions.

01:29:21 18 It also means that Drexel failed to demonstrate that
01:29:24 19 these differences in pay were explained by a bona fide
01:29:27 20 seniority system, merit system, a system which measures
01:29:32 21 earnings by quantity or quality of production or a differential
01:29:36 22 based on any factor other than sex.

01:29:39 23 Therefore, the only questions remaining for trial, the
01:29:43 24 only questions remaining for you are, one, whether Drexel
01:29:48 25 willfully violated the equal protection -- or the Equal Pay

01:29:52 1 Act, and which male employees should be considered as
01:29:55 2 comparators in determining the damages Professor Piety is owed.
01:30:01 3 Professor Piety for her part, argues that Drexel willfully
01:30:06 4 violated the Equal Pay Act, which Drexel denies.

01:30:09 5 Now a few words about your conduct as jurors. First,
01:30:13 6 I instruct you that during the trial and until you have heard
01:30:16 7 all of the evidence and retire to the jury room to deliberate,
01:30:19 8 you are not to discuss the case with anyone, not even among
01:30:23 9 yourselves. If anyone should try to talk to you about the
01:30:26 10 case, including a fellow juror, bring to it my attention
01:30:27 11 immediately through Mr. Malave.

01:30:30 12 There are good reasons for bans on discussions, the
01:30:34 13 most important being the need for you to keep an open mind
01:30:37 14 throughout the presentation of evidence. I know that many of
01:30:40 15 you use cell phones, smart phones and other portable electronic
01:30:45 16 devices, laptops, netbooks and other computers both portable
01:30:50 17 and fixed, and other tools of technology to access the internet
01:30:55 18 and communicate with others. You also must not talk to anyone
01:30:58 19 about this case or use these tools to communicate
01:31:01 20 electronically with anyone about the case. This includes your
01:31:05 21 family and your friends.

01:31:07 22 You may not communicate orally with anyone about the
01:31:10 23 case on your cell phone, your smartphone or portable or fixed
01:31:15 24 computer or device of any kind or use these devices to
01:31:18 25 communicate electronically by messages or posting of any kind,

01:31:22 1 including e-mail, instant messages, text messages, text or
01:31:24 2 instant messaging services such as WhatsApp or Facebook
01:31:29 3 Messenger or through any blog, website, internet chat room or
01:31:32 4 by way of any other social networking website or services,
01:31:35 5 including but not limited to Facebook, X, Instagram, LinkedIn,
01:31:35 6 Snap
01:31:41 7 Chat and Tik Tok.

01:31:42 8 Now, if any lawyer or party or witness does not speak
01:31:46 9 to you when you pass in the hall, ride the elevator or the
01:31:50 10 like, remember it is because they are not supposed to talk or
01:31:53 11 visit with you either. That's why I'm asking that you wear
01:31:56 12 your juror tags that shows that you are someone who is not to
01:31:59 13 be approached in any way.

01:32:01 14 Second, do not read or listen to anything related to
01:32:03 15 this case that is not admitted into evidence. By that I mean
01:32:07 16 if there is a newspaper article or radio or television report
01:32:11 17 relating to this case, do not read the article. Do not watch
01:32:14 18 or listen to the report. In addition, do not try to do any
01:32:19 19 independent research or investigation on your own on matters
01:32:23 20 relating to the case or this type of case. Do not do any
01:32:27 21 research on the internet, for example. You are to decide the
01:32:31 22 case upon the evidence presented at trial.

01:32:34 23 In other words, you should not consult dictionaries or
01:32:37 24 reference materials, search the internet, websites, blogs or
01:32:42 25 any other -- or use any electronic tools to obtain information

01:32:45 1 about this case or to help you decide the case. Please do not
01:32:48 2 try to find out information from any source outside the
01:32:52 3 confines of this courtroom.

01:32:54 4 Again, do not reach any conclusion on claims or
01:32:58 5 defenses until all of the evidence is in. Keep an open mind
01:33:00 6 until you start your deliberations at the end of the case.

01:33:03 7 Now, during the trial it may be necessary for me to
01:33:05 8 talk to the lawyers out of your hearing by having a bench
01:33:09 9 conference. If that happens, please be patient. We are not
01:33:13 10 trying to keep important information from you. Those
01:33:13 11 conferences are necessary for me to fulfill my responsibility,
01:33:17 12 which is to be sure that evidence is presented to you correctly
01:33:20 13 under the law. We will, of course, do what we can to keep the
01:33:24 14 number of and length of these conferences to a minimum. I may
01:33:28 15 not always grant an attorney's request for a conference. Do
01:33:31 16 not consider my granting or denying a request for a conference
01:33:34 17 as any indication of my opinion of the case or of what your
01:33:38 18 verdict should be.

01:33:39 19 Let's talk about evidence. The evidence from which
01:33:44 20 you are going to find the facts consists of the following: The
01:33:48 21 testimony of the witnesses, documents and other things received
01:33:52 22 as exhibits, any facts that are stipulated, that is formally
01:33:57 23 agreed to by the parties, and any facts that I judicially
01:34:02 24 notice. That is facts I say you must accept as true even
01:34:05 25 without other evidence.

01:34:07 1 Now, the following things are not evidence:
01:34:10 2 Statements, arguments, and questions of the lawyers for the
01:34:13 3 parties in this case. Objections by lawyers. Any testimony I
01:34:18 4 tell you to disregard. And anything you may see or hear about
01:34:21 5 this case outside of the courtroom. You must make your
01:34:24 6 decision based only on the evidence that you see and hear in
01:34:28 7 Court. Do not let rumors, suspicions or anything else that you
01:34:32 8 may see or hear outside of the courtroom influence your
01:34:35 9 decision in any way.

01:34:37 10 You should use your common sense too in weighing the
01:34:41 11 evidence. Consider it in the light of your everyday experience
01:34:43 12 with people and events, and give it whatever weight you believe
01:34:47 13 it deserves. If your experience tells you that certain
01:34:51 14 evidence reasonably leads to a conclusion, you are free to
01:34:55 15 reach that conclusion.

01:34:56 16 There are rules that control what can be received into
01:34:59 17 evidence. When a lawyer asks a question or offers an exhibit
01:35:04 18 into evidence and a lawyer on the other side thinks that it is
01:35:08 19 not permitted by the rules of evidence, that lawyer may object.
01:35:12 20 This simply means that the lawyer is requesting that I make a
01:35:15 21 decision on a particular rule of evidence.

01:35:19 22 You should not be influenced by the fact that an
01:35:22 23 objection is made. Objections to questions are not evidence.
01:35:26 24 Lawyers have an obligation to their clients to make objections
01:35:30 25 when they believe that evidence being offered is improper under

01:35:34 1 the rules of evidence. You should not be influenced by the
01:35:37 2 objection or by the Court's ruling on it. If the objection is
01:35:41 3 sustained, ignore the question. If it is overruled, treat the
01:35:46 4 answer like any other. If you are instructed that some item of
01:35:50 5 evidence is received for a limited purpose only, you must
01:35:54 6 follow that instruction.

01:35:56 7 Also, certain testimony or other evidence may be
01:35:59 8 ordered struck from the record and you will be instructed to
01:36:02 9 disregard this evidence. Do not consider any testimony or
01:36:05 10 other evidence that gets struck or excluded. Do not speculate
01:36:11 11 about what a witness might have said or what an exhibit might
01:36:14 12 have shown.

01:36:15 13 There are two types of evidence that you may use in
01:36:19 14 reaching your verdict. One type of evidence is called direct
01:36:23 15 evidence. An example of direct evidence is when a witness
01:36:28 16 testifies about something that the witness knows through his or
01:36:32 17 her own senses, something the witness has seen, felt, touched
01:36:36 18 or heard or did. If a witness, for example, testified that
01:36:41 19 they saw it raining outside and you believe them, that would be
01:36:45 20 direct evidence that it was raining. Now, another form of a
01:36:50 21 direct evidence is an exhibit where the facts to be proved is
01:36:53 22 its existence or current condition.

01:36:55 23 The other type of evidence is circumstantial evidence.
01:36:59 24 Circumstantial evidence is proof of one or more facts from
01:37:02 25 which you could find another fact. So, for example, if someone

01:37:06 1 walked into the courtroom wearing a rain coat covered with
01:37:08 2 drops of water and carrying a wet umbrella, that would be
01:37:12 3 circumstantial evidence from which you could conclude that it
01:37:15 4 was raining.

01:37:16 5 You should consider both kinds of evidence that are
01:37:20 6 presented to you. The law makes no distinction in the weight
01:37:24 7 to be given to either direct or circumstantial evidence. You
01:37:27 8 are to decide how much weight to give any evidence.

01:37:30 9 Now, in deciding what the facts are, you may have to
01:37:35 10 decide which testimony you believe and which testimony you do
01:37:40 11 not believe. You are the sole judges of credibility of the
01:37:44 12 witnesses.

01:37:45 13 Credibility means whether a witness is worthy of
01:37:50 14 belief. You may believe everything a witness says or only part
01:37:55 15 of it or none of it. In deciding what to believe, you may
01:38:00 16 consider a number of factors including the following: The
01:38:03 17 opportunity and ability of the witness to see or hear or know
01:38:06 18 the things the witness testifies to, the quality of the
01:38:10 19 witness's understanding and memory, the witness's manner while
01:38:14 20 testifying, whether the witness has an interest in the outcome
01:38:18 21 of the case or any motive, bias or prejudice, whether the
01:38:21 22 witness is contradicted by anything the witness said or wrote
01:38:26 23 before trial or by other evidence, how reasonable the witness's
01:38:30 24 testimony is when considered in the light of other evidence
01:38:33 25 that you believe, and any other factors that bear on

1 believability.

2 The weight of the evidence to prove a fact does not
3 necessarily depend on the number of witnesses who testify.
4 What is more important is how believable the witnesses were,
5 and how much weight you think that their testimony deserves.
6 Only the lawyers and I are allowed to ask questions of
7 witnesses. You are not permitted to ask questions of
8 witnesses.

9 As you will see, we will be recording the testimony.
10 The stenographer here will be taking down the testimony during
11 the course of the trial, but you should not assume that the
12 transcript will be available for your review during your
13 deliberations. You must pay close attention to the testimony
14 as it is given.

15 You may not take notes during the course of the trial.
16 Let me tell you why. It's difficult to take notes and at the
17 same time try and pay attention to what a witness is saying and
18 the witness's manner while testifying. One of the reasons for
19 having a number of persons on the jury is to gain the advantage
20 of your individual and collective memories so that you can then
21 deliberate together at the end of the trial, and reach
22 agreements on the facts. While some of you might feel
23 comfortable taking notes, other members of the jury might not
24 feel as comfortable and may not wish to do so. Notes might be
25 given too much weight over memories. Especially, the memories

1 of those who do not take notes. So for those reasons, I ask
2 that you not take notes during the trial.

3 We are now going to talk about preponderance of the
4 evidence. This is a civil case. Plaintiff is the party who
5 brought this lawsuit. Defendant is the party against which the
6 lawsuit was filed. Plaintiff has the burden of proving her
7 case by what is called the preponderance of the evidence. That
8 means plaintiff has to prove to you, in light of all of the
9 evidence, that what she claims is more likely so than not so.
10 To say it differently, if you were to put the evidence
11 favorable to the plaintiff and the evidence favorable to the
12 defendant on opposite sides of scales, plaintiff would have to
13 make the scales tip somewhat on their side. If plaintiff fails
14 to meet this burden, the verdict must be for defendant. If you
15 find after considering all the evidence, that a claim or fact
16 is more likely so than not so, then the claim or fact has been
17 proved by a preponderance of the evidence.

18 In determining whether any fact has been proved by a
19 preponderance of the evidence in the case you may, unless
20 otherwise instructed, consider the testimony of all of the
21 witnesses regardless who of may have called them and all of the
22 exhibits received in evidence regardless of who may have
23 produced them.

24 Now, you may have heard of the term proof beyond a
25 reasonable doubt. That is the strictest standard of proof and

1 applies only to criminal cases. It does not apply in civil
2 cases such as this, so you should put it out of your mind.

3 Let me tell you how the trial will proceed. First,
4 plaintiffs attorney will make an opening statement to you.

5 Next, attorneys for the defendant may make an opening
6 statement. What is said in the opening statements is not
7 evidence, but is simply an outline to help you understand what
8 each party expects the evidence to show.

9 A party is not required to make an opening statement.
10 Plaintiff goes first because, as I told you, plaintiff has the
11 burden of proof. Plaintiff will present witnesses, and counsel
12 for defendant may cross-examine, and plaintiff may also present
13 evidence. Following plaintiff's case, defendant may present
14 evidence and counsel for plaintiff may cross-examine witnesses
15 for the defense, and after the parties' main case is presented,
16 it is possible that they may be permitted to present what is
17 called rebuttal evidence.

18 Now, after all the evidence has been presented I will
19 instruct you on the law, and then the attorneys will present to
20 you closing arguments to summarize and interpret the evidence
21 in a way that is helpful to their clients' position. As with
22 opening statements, closing arguments are not evidence.

23 After that, you will retire to the jury room to
24 deliberate on your verdict in this case. I will present to you
25 a computer. It's a blank computer. It can't access anything

01:42:50 1 except the thumb drive that I will give to you, which will have
01:42:54 2 all of the exhibits that I've admitted into evidence.

01:42:56 3 In terms of how things generally will go today, it's a
01:43:00 4 little different because it's the first day of the trial.
01:43:03 5 Generally, we'll start at 9:00, well go for an hour and a half,
01:43:04 6 we'll take a 10-minute break, go for another hour and a half,
01:43:06 7 take lunch, come back, hour and a half, break, come back until
01:43:09 8 the end of the day at 5:00.

01:43:11 9 But there may be instances where we end a little early
01:43:14 10 but we have ended a witness and it doesn't make sense to start
01:43:18 11 one. There may be cases where we're just a few minutes after
01:43:21 12 5:00. I will ask if it's okay to finish that witness because
01:43:24 13 otherwise they will have to come in in the morning for just a
01:43:28 14 few minutes. So we will work together on this, but the lawyers
01:43:33 15 tell me that it will be less than a week, but it will be more
01:43:39 16 than a few days.

01:43:40 17 So with that, plaintiff.

01:43:50 18 MR. FOLEY: Good afternoon. My name is Brian Foley
01:44:12 19 and I represent the plaintiff in this case, Marilyn Gaye Piety
01:44:17 20 Foley. So there is no mystery here, we are married. She's my
01:44:21 21 wife. And you heard from the judge already that she is suing
01:44:26 22 Drexel University, her current employer, for violation of the
01:44:31 23 Equal Pay Act.

01:44:32 24 And as the Judge told you, it has already been
01:44:35 25 determined that Drexel violated the Equal Pay Act, that Drexel

01:44:39 1 has been found to be paying male professors, as Professor Piety
01:44:47 2 is, more money for doing -- more money for doing substantially
01:44:53 3 equal work. Doesn't have to be the same exact work, but it's
01:44:57 4 got to be substantially equal and that Drexel does not have any
01:45:02 5 defenses that the difference in pay is somehow not based on
01:45:10 6 difference in sex.

01:45:12 7 So what are we doing here? We are here because Drexel
01:45:17 8 is trying to limit damages. We are here to prove to you two
01:45:23 9 things, and we believe the evidence will show this: That the
01:45:29 10 male professors in the department of English and Philosophy
01:45:33 11 where Professor Piety works as a philosophy professor, they are
01:45:39 12 being paid substant -- they are being paid more to do
01:45:43 13 substantially equal work, and we are going to show you which
01:45:49 14 professors those are.

01:45:51 15 And we are going to -- we will have the names spelled
01:45:55 16 out for you later, but it's professors Richard Astro, Professor
01:46:00 17 Jacques Catudal. Professor Astro teaches English. Professor
01:46:04 18 Jacques Catudal taught Philosophy. Professor Mark Greenberg,
01:46:13 19 who has since -- or who has since left the department, but you
01:46:18 20 will hear about him. Professor Abioseh Porter, Professor Roger
01:46:24 21 Kurtz, who is over there. He is the current Department Head
01:46:28 22 but he is also a professor, and he gets a base salary for being
01:46:33 23 a professor in the department and that base salary is much
01:46:37 24 higher than Professor Piety's base salary.

01:46:41 25 And you will also hear about Andrew Smith, who is a

01:46:45 1 professor in the department as well as in another department.
01:46:49 2 And, finally, you will hear about Professor Scott Warnock who
01:46:54 3 also serves some administrative role, but he gets a base salary
01:46:59 4 for being a professor in the department.

01:47:02 5 And the evidence will show that that base salary is
01:47:06 6 paid to professors in the department for substantially equal
01:47:10 7 work, work of the same skill, work of the same responsibility,
01:47:17 8 work of the same effort and work that's done under
01:47:21 9 substantially the same working conditions.

01:47:24 10 You will see the evidence will show that this is a
01:47:28 11 department where all of the professors have the same teaching
01:47:34 12 load, all of the professors have the same requirements of how
01:47:39 13 much scholarship to publish. All the professors have the same
01:47:42 14 requirement regarding service to the University or even to
01:47:47 15 their profession at large.

01:47:49 16 And the evidence will show that all of the professors
01:47:53 17 in the department who are paid a base salary for being
01:47:58 18 professors in the department are evaluated according to the
01:48:02 19 same criteria, teaching, service, scholarship, same amount of
01:48:07 20 work and they're all evaluated by the same man and, again, that
01:48:11 21 is Department Head Roger Kurtz, who's also a professor in the
01:48:15 22 department.

01:48:16 23 So we will be showing you that these other professors,
01:48:22 24 seven other professors tenured professors in the department, as
01:48:25 25 is Professor Piety, they're all being paid much more than she

01:48:31 1 is for the same work.

01:48:35 2 The second thing that we're going to -- that we are
01:48:38 3 here to prove and that we believe the evidence will show is
01:48:42 4 that Drexel's violation of the Equal Pay Act, which is already
01:48:46 5 established, that that violation was what the law calls
01:48:52 6 willful. And what does that mean? That means that the
01:48:56 7 evidence will show that Drexel knew or was reckless,
01:49:04 8 substantially reckless about whether it was violating the Equal
01:49:10 9 Pay Act, that is, paying male professors more for the same work
01:49:16 10 than a female professor, and here that is Professor Piety. The
01:49:21 11 evidence will show that, of course, Drexel knew this.

01:49:25 12 The evidence will show even that Drexel, throughout
01:49:31 13 this case, tried to hide that and to keep that -- keep that a
01:49:38 14 secret in the case. You will hear evidence that Drexel did not
01:49:46 15 present until after the Court found the liability for violation
01:49:54 16 of the Equal Pay Act. You will see evidence that only then,
01:49:58 17 only after that did Drexel present evidence that oh, the base
01:50:04 18 salaries are paid to professors, and any professor who is doing
01:50:10 19 administrative work on top of that is actually paid an
01:50:14 20 administrative stipend.

01:50:16 21 So you will see that Dr. Kurtz, who is the Department
01:50:20 22 Head, before the -- before the judgment of liability, his base
01:50:25 23 salary seemed hard to compare to professor Piety's base salary
01:50:32 24 because it -- it seemed as if, well, he is a Department Head as
01:50:38 25 well, and he is a professor and a Department Head and he is

01:50:41 1 getting that. But after the judgment of liability that Drexel
01:50:45 2 had violated the Equal Pay Act, after that we learn that there
01:50:49 3 is that base salary.

01:50:51 4 But on top of that, for being the Department Head,
01:50:56 5 Dr. Kurtz receives \$ [REDACTED] extra a year. So, in fact, his base
01:51:02 6 salary, which is much higher than Dr. Piety's, can indeed be
01:51:07 7 compared to it, and it is much higher. So we will show you
01:51:12 8 evidence of that. And the idea is when people hide things,
01:51:16 9 they hide them because they know them. If you're hiding
01:51:20 10 something, you have to know that's something. People don't
01:51:24 11 accidentally really hide things. So you will -- so you will see
01:51:28 12 that.

01:51:31 13 Also, I want to say that you will not be asked to
01:51:35 14 calculate the actual dollar damages. Some of you may be great
01:51:40 15 at math and may be disappointed. Others of you may be glad.
01:51:44 16 This is a the department of English and Philosophy, so it's not
01:51:47 17 about math and you won't have to calculate anything.

01:51:51 18 One other thing that -- that I want you to know in
01:51:56 19 this case is I will be putting on my case through witnesses
01:52:00 20 from Drexel, including Dr. Kurtz. And they are not quote,
01:52:05 21 unquote, my witnesses. So I will be treating them on
01:52:10 22 cross-examination as one would call a hostile witness. So I
01:52:14 23 want you to know that up front. It's not that I've met with
01:52:18 24 these witnesses and prepared them. Certainly not. It's
01:52:22 25 their -- they're on the other side and I will be working

1 through them in this case.

2 Finally, we're going to start our case right on the
3 eve of when this Court -- I will start my presentation of
4 witnesses about an event that occurred right on the eve of the
5 Court's finding of liability that Drexel had violated the Equal
6 Pay Act. And it was an event where the plaintiff had requested
7 access to see certain payroll documents at Drexel in real time
8 in Drexel's databases, and she's going to see these over Zoom
9 and the plaintiff asked to see W-2s and Drexel would not let
10 her see them, did not allow access in real time.

11 And you'll see -- you will see me present this
12 through two witnesses and you will hear two very different
13 stories about what happened.

14 With that, that is it for now and we are glad you're
15 here, and we hope that you will be able to use your common
16 sense, and as Judge Beetlestone said this morning, your sense
17 of fairness in this case.

18 THE COURT: Defense?

19 MS. GREENSPAN: When it comes to salaries at Drexel,
20 the evidence in this case will show, first, Drexel considers
21 many factors in setting salaries. Second, one of the
22 significant factors that Drexel considers in setting salaries
23 is whether a professor has taken on an administrative role.
24 While Professor Piety chose to focus solely on teaching and
25 research, she never pursued an administrative role.

01:55:02 1 When looking at professor Piety's pay, you should
01:55:06 2 determine the most similarly situated professors. Drexel's
01:55:11 3 conduct was not willful. Good afternoon. My name is Leslie
01:55:17 4 Miller Greenspan. And with me this week as you now know, will
01:55:23 5 be Dr. Roger Kurtz, who is the Department Head for the
01:55:26 6 Department of English and Philosophy at Drexel University.

01:55:31 7 MR. KURTZ: Good afternoon.

01:55:32 8 MS. GREENSPAN: And also with us, so you don't wonder,
01:55:34 9 we have with us Ms. Holly Lopez, who is working with me during
01:55:39 10 trial.

01:55:40 11 MS. LOPEZ: Good afternoon.

01:55:41 12 MS. GREENSPAN: You've likely passed Drexel before.
01:55:44 13 It's just a few blocks from 30th Street Station. Drexel is
01:55:48 14 known for its focus on science, technology, engineering, math
01:55:54 15 and business. It has a premier medical school and also a law
01:55:59 16 school. Drexel also has a College of Arts and Sciences.
01:56:06 17 Within the College of Arts and Sciences is the Department of
01:56:09 18 English and Philosophy. And within the Department of English
01:56:14 19 and Philosophy, there are two programs, which, not
01:56:18 20 surprisingly, are called English and Philosophy.

01:56:21 21 The plaintiff, Dr. Piety, is a professor within the
01:56:27 22 Philosophy program. Like all faculty members at Drexel,
01:56:33 23 Professor Piety must conduct research, and publish articles,
01:56:38 24 teach a certain caseload and serve on University committees.
01:56:43 25 These are the minimal expectations of all full-time faculty

01:56:47 1 members. And as a faculty member at Drexel, she has received
01:56:51 2 promotions and pay increases over time.

01:56:55 3 You will hear that the -- that Professor Piety first
01:57:00 4 came to Drexel in 1998, that she came as a visiting assistant
01:57:06 5 professor, and that was an entry level position at which she
01:57:09 6 was earning \$ [REDACTED] a year. She rose through the ranks at
01:57:14 7 Drexel, first becoming an assistant professor with tenure, then
01:57:18 8 an Associate Professor, and then a full Professor. There is
01:57:25 9 only rank at Drexel higher than a full professor, and that is
01:57:25 10 Distinguished Professor.

01:57:31 11 Each of Dr. Piety's promotions came with a salary
01:57:35 12 increase. The evidence will show that the progression at
01:57:39 13 Drexel works the same for the men as the women. There are men
01:57:43 14 and women in the department who are earning more than
01:57:47 15 Dr. Piety, and you will see why as this case develops.

01:57:51 16 The evidence will show that there is an important
01:57:54 17 distinction between Professor Piety and other professors. She
01:57:58 18 has never in her 27 years at Drexel served in an administrative
01:58:03 19 role. She has never sought to serve in an administrative
01:58:08 20 role --

01:58:08 21 MR. FOLEY: Your Honor, I need to object. That is
01:58:10 22 misstating the evidence. She has sought administrative roles.

01:58:15 23 THE COURT: This is the opening.

01:58:17 24 MR. FOLEY: Yes.

01:58:18 25 THE COURT: Ms. Greenspan is going to say what she

01:58:22 1 believes she's going to show. If there's issues during trial,
01:58:23 2 with respect to objections you can make those objections. Go
01:58:26 3 ahead.

01:58:27 4 MS. GREENSPAN: Dr. Piety has never sought to be an
01:58:30 5 administrative role like the provost, dean, or Department Head.
01:58:35 6 The evidence will show that her salary pay reflects her career
01:58:39 7 choices. By the end of this trial, we will ask you to find
01:58:43 8 that Drexel's conduct was not willful and that the proper
01:58:47 9 comparators are not if the former provost or vice provost.

01:58:53 10 As I told you when I first started, the evidence will
01:58:56 11 show that professors who take on administrative roles, whether
01:58:59 12 men or women, are compensated at a higher level reflecting the
01:59:04 13 demands and sacrifices of those positions. Professor Piety has
01:59:09 14 not served in an administrative role. She will, however,
01:59:12 15 attempt to compare herself to male professors who have served
01:59:16 16 the University in these important administrative roles.

01:59:20 17 Salaries at Drexel are not a one-size-fits-all kind of
01:59:26 18 thing. Salaries at Drexel are analyzed by a compensation team,
01:59:31 19 which is part of the Human Resources Department. That team's
01:59:35 20 role is to make sure that salaries are fair and equitable.
01:59:40 21 Each person who will testify about the compensation will
01:59:43 22 reiterate to you that raising your hand to tackle one of these
01:59:47 23 important administrative roles is a major influence for
01:59:51 24 compensation.

01:59:52 25 You have heard terms like "faculty" and

01:59:56 1 "administrator." Let me just take a moment to make sure I
02:00:00 2 explain that. When I say "professor" I am talking about
02:00:04 3 someone who teaches, publishes, does research and publishes and
02:00:08 4 sits on committees. Professors like Dr. Piety.
02:00:13 5 When I say "administrative roles" I mean roles at
02:00:18 6 Drexel like the provost of the University, the vice provost of
02:00:23 7 the University, the dean of a college or a Department Head. A
02:00:28 8 Department Head like Dr. Kurtz.
02:00:31 9 You will hear the terms "provost" and "vice provost."
02:00:35 10 The provost is the second highest ranking person at the
02:00:40 11 University, second only to the president.
02:00:42 12 It is undisputed that Drexel pays faculty and
02:00:47 13 administrative roles a higher salary. And when they step down
02:00:50 14 from those administrative roles, they are able to negotiate to
02:00:55 15 keep some portion of that salary. This is true for both men
02:00:58 16 and women in those roles. So once the salaries go up, they
02:01:04 17 never fully come back down.
02:01:06 18 Now, the University does this for two main reasons:
02:01:10 19 First, these are tough positions. They require a lot of work.
02:01:14 20 In fact, those roles are 12-month roles. While faculty
02:01:20 21 positions, professor positions, are nine-month roles.
02:01:23 22 As I told you a moment ago about the provost, the
02:01:27 23 provost is the second highest ranking person at the University,
02:01:30 24 second only to the President. This is an extremely important,
02:01:33 25 demanding and stressful job. The provost must oversee all 14

02:01:40 1 colleges, 22,000 students and 1,200 full-time faculty, plus
02:01:46 2 several thousand professional staff and part-time faculty. And
02:01:50 3 with those increased responsibilities come increased salary.
02:01:57 4 Increasing one's salary to do this role incentivizes faculty to
02:02:03 5 step up to take those roles.

02:02:05 6 Second, when a faculty member takes on an
02:02:08 7 administrative role they pause their academic careers. They
02:02:14 8 interrupt their teaching and their scholarship. And this is a
02:02:19 9 big sacrifice for faculty and it can really limit their
02:02:23 10 professional opportunities. Keep in mind some of these folks
02:02:27 11 became professors because they love teaching and research and
02:02:32 12 publishing.

02:02:32 13 When they take on these administrative roles, they
02:02:36 14 largely give that up. Sometimes for a few years, sometimes for
02:02:40 15 a decade or more. Years that they can never get back of
02:02:44 16 teaching and research. The University, therefore, pays them a
02:02:47 17 higher salary and negotiates so that they can keep a portion of
02:02:52 18 it when they step down from those roles and rejoin the faculty
02:02:56 19 after those years as an administrator.

02:02:59 20 Now, let me be clear about something. The undisputed
02:03:02 21 evidence will show that at Drexel, both men and women who take
02:03:07 22 on these administrative roles receive this benefit. The
02:03:11 23 undisputed evidence will also show that the biggest reason for
02:03:15 24 the salary differences is that some of the faculty members
02:03:19 25 you're going to hear about held administrative roles and

02:03:23 1 Professor Piety never did.

02:03:25 2 In addition, the evidence will show that there are

02:03:28 3 other objective reasons for pay differences. Some of these

02:03:33 4 that you're going to hear about how long someone who is worked

02:03:36 5 at Drexel, whether that faculty member has an area of academic

02:03:43 6 specialization that is in high demand at a science and

02:03:47 7 engineering and technology heavy University like Drexel,

02:03:51 8 whether the faculty member has prior experience in a tenure

02:03:56 9 lined position as opposed to coming in as an entry level

02:04:00 10 person, whether the faculty member has computing job offers at

02:04:04 11 the time of their hire. All of these are factors that Drexel

02:04:08 12 considers in setting salaries. So when you hear the evidence I

02:04:12 13 ask that you consider where Dr. Piety sits in comparison to

02:04:18 14 these factors.

02:04:21 15 Now, before you came in here as jurors, the Judge made

02:04:24 16 a ruling that Drexel violated the Equal Pay Act. The Judge

02:04:28 17 left it up to you to decide whether Drexel acted willfully.

02:04:34 18 The Judge also left it up to you to decide whose salaries are

02:04:39 19 most appropriate to compare to Professor Piety's. These are

02:04:44 20 questions for you to decide. Drexel's conduct was not willful,

02:04:49 21 and the evidence will show that. You will hear testimony and

02:04:54 22 see documents about the women in the department who are paid

02:04:58 23 more than Dr. Piety, like Dr. Doreen Saar, Dr. Eva Thury,

02:05:05 24 Dr. Miriam Kotsin, all of whom came to Drexel many years before

02:05:11 25 Dr. Piety.

02:05:12 1 You will hear testimony about the areas of
02:05:14 2 specialization that some of these probations hold, like
02:05:18 3 Dr. Scott Warnock and Dr. Andrew Smith. You will hear that
02:05:23 4 some of the professions have different ranks, including the
02:05:26 5 highest rank I mentioned earlier of distinguished professor,
02:05:29 6 like Dr. Mark Greenberg and Dr. Richard Astro. Dr. Piety does
02:05:35 7 not hold and never held that rank.

02:05:38 8 You will hear that some of the professors that
02:05:41 9 Dr. Piety is comparing herself to today held the role of
02:05:45 10 provost or vice provost, and their salaries went up when they
02:05:50 11 took those administrative positions and they never came back
02:05:54 12 down when they rejoined the faculty, like Dr. Mark Greenberg,
02:05:59 13 Dr. Richard Astro and Dr. Jacques Catudal.

02:06:04 14 You will hear that some these professors hold the role
02:06:07 15 of Department Head, like Dr. Kurtz and like Dr. Andrew Smith.
02:06:13 16 You will hear testimony about the professors who have worked at
02:06:16 17 Drexel longer than Dr. Piety, those who came from different
02:06:21 18 universities, those who served at tenure line positions before
02:06:26 19 coming to Drexel, those who are the highly decorated with
02:06:29 20 awards of grants, and those who formerly held titles such as
02:06:36 21 Department Head, like Abioseh Porter. And you will hear that
02:06:39 22 Dr. Piety never sought to hold an administrative position like
02:06:43 23 provost, dean or Department Head. All of this shows that
02:06:49 24 Drexel was not willful in setting salaries.

02:06:52 25 As you hear the evidence, you should keep in mind that

02:06:57 1 it is Dr. Piety who bears the burden of proving to you that
02:07:01 2 Drexel's conduct was willful. It is Dr. Piety who bears the
02:07:05 3 burden of proving her damages. At the end of this case, I am
02:07:10 4 going to come back up here and ask you to enter a verdict
02:07:14 5 finding that Drexel's conduct was not willful.

02:07:19 6 I also ask you to consider the salaries, who's salary
02:07:23 7 should be compared to Dr. Piety's, whether it is her colleague
02:07:27 8 Andrew Smith, the only other full professor in the Philosophy
02:07:31 9 program. Or her former colleague, Jacques Catudal, who has
02:07:36 10 since retired as a Philosophy professor, but came to Drexel
02:07:41 11 17 years before Dr. Piety and served as vice provost.

02:07:47 12 You will decide who to compare Dr. Piety's salary to
02:07:51 13 and the evidence will show that it is not who Dr. Piety thinks
02:07:56 14 it is. Different people do different jobs and therefore are
02:07:59 15 paid different salaries.

02:08:01 16 And I am going to end right where I began, with what
02:08:05 17 the evidence will show. It will show that Drexel's salary
02:08:09 18 decisions are based on a number of factors. It will show that
02:08:13 19 administrative roles play a significant role in setting
02:08:17 20 salaries. Professor Piety's salary must be compared to the
02:08:21 21 most similarly situated individuals.

02:08:25 22 Drexel's conduct was not willful. Thank you and thank
02:08:30 23 you for your promise to hear all of the evidence, including
02:08:33 24 Drexel's evidence, before making up your mind in the case.

02:08:36 25 THE COURT: Sidebar.

02:09:01 1 (Sidebar discussion follows:)

02:09:01 2 THE COURT: Just wanted to make sure I heard you

02:09:01 3 correct. Now, you said in your opening it was not Catudal,

02:09:05 4 because he was provost, right? That was the comparator.

02:09:10 5 MS. GREENSPAN: I said they may consider that it is

02:09:13 6 Catudal. They may consider it's Andrew Smith. They may

02:09:18 7 consider.

02:09:18 8 THE COURT: They may consider. Okay. So that's not

02:09:21 9 what I heard, but you think Catudal, Smith and Warnock or not

02:09:25 10 Warnock?

02:09:26 11 MS. GREENSPAN: It will be for them to decide Warnock.

02:09:29 12 THE COURT: Be careful on how you present it because

02:09:31 13 what it sounded like was you were going to -- you were saying

02:09:35 14 no, no, no, but maybe. So be really careful because you're

02:09:39 15 walking the line right now. Understood?

02:09:42 16 MS. GREENSPAN: I understand.

02:10:09 17 (Sidebar discussion ends.)

02:10:09 18 THE COURT: Are these folks in the courtroom, any of

02:10:09 19 them witnesses?

02:10:09 20 MS. GREENSPAN: I'm sorry, Your Honor?

02:10:11 21 THE COURT: Any of these folks in the courtroom, are

02:10:13 22 they witnesses?

02:10:14 23 MR. FOLEY: Not that I know of, Your Honor. No.

02:10:16 24 THE COURT: First witness.

02:10:17 25 MR. FOLEY: And this witness is on Zoom, Your Honor,

02:10:19 1 so I am going to need a moment to -- Drexel -- I agreed to do
02:10:25 2 this on Zoom and Drexel is providing the technology.

02:10:29 3 THE COURT: Okay. What's the name of this witness?

02:10:31 4 MR. FOLEY: Megan Weyler.

02:11:01 5 THE COURT: Members of the jury, can you see that
02:11:02 6 screen or do you need it angled a bit more?

02:11:54 7 THE JURY: That's good.

02:11:54 8 THE COURT: Ms. Weyler, can you hear me? Okay. We
02:11:59 9 cannot hear Ms. Weyler. Turn it up. Counsel? Can you turn it
02:11:59 10 up? Oh, it's from you guys?

02:11:59 11 MR. FOLEY: Yes.

02:12:52 12 MS. LOPEZ: Can you hear us, Ms. Weyler?

02:12:54 13 (Technical issues with videoconference.)

02:15:05 14 THE COURT: What's the problem?

02:15:05 15 MS. LOPEZ: The audio is not coming through the
02:15:08 16 speakers.

02:15:08 17 THE COURT: Okay. Members of the jury, we've got some
02:15:09 18 technical problems. Why don't you go back to the jury room?
02:15:14 19 The same admonitions continue to apply. Don't talk about
02:15:21 20 anything to do with this case.

02:15:21 21 THE JURY: Okay.

02:15:26 22 THE COURT: Thank you.

02:15:46 23 We'll bring in IT. Call me when it's resolved.

02:29:59 24 (Brief recess.)

02:29:59 25 THE COURT: We are bringing in the jury. We have it

02:30:02 1 working. Ms. Weyler, can you just say a few words?

02:30:07 2 MS. WEYLER: Hello. Good afternoon. Can you hear me?

02:30:09 3 THE COURT: Yes, I can. Do you have anyone in the

02:30:09 4 room with you?

02:30:13 5 MS. WEYLER: I have no one in the room with me.

02:30:15 6 THE COURT: Thank you.

02:30:30 7 And by the way, I don't have an exhibit list with your

02:30:33 8 stipulations.

02:31:04 9 THE DEPUTY CLERK: All rise for the jury.

02:31:05 10 (The jury enters the courtroom.)

02:31:05 11 THE COURT: Have a seat. Your witness.

02:31:05 12 DIRECT EXAMINATION

02:31:05 13 BY MR. FOLEY:

02:31:17 14 Q. Ms. Weyler, can you hear me?

02:31:21 15 A. I can hear you, yes.

02:31:23 16 Q. Good. Okay. Thanks. Good afternoon, Ms. Weyler. I'm

02:31:29 17 Brian Foley. We met before when I took your deposition. Do

02:31:33 18 you remember that?

02:31:33 19 A. Yes.

02:31:34 20 Q. Okay. You are testifying today on Zoom because you're in

02:31:40 21 California; isn't that right?

02:31:42 22 A. That's correct.

02:31:43 23 Q. That's because you're on vacation; isn't that right?

02:31:46 24 A. Correct.

02:31:47 25 Q. And you are aware that I agreed to let you testify by Zoom

02:31:52 1 instead of coming here in person as an effort to -- as for your
02:32:02 2 convenience and for Drexel's convenience; isn't that right?
02:32:05 3 A. I am aware and much appreciated.
02:32:08 4 Q. And you're aware that it was agreed that it was Drexel's
02:32:12 5 responsibility to make sure the technology worked?
02:32:15 6 A. I am aware.
02:32:16 7 Q. All right. All right. So let's talk about you. You are
02:32:22 8 the --
02:32:22 9 THE COURT: Hold on. You need to swear in the
02:32:26 10 witness.
02:32:27 11 MR. FOLEY: Okay.
02:32:27 12 THE DEPUTY CLERK: Ms. Weyler, would you please raise
02:32:29 13 your right hand?
02:32:33 14 (MEGAN VAN HORN, sworn.).
02:32:40 15 THE DEPUTY CLERK: Please state your full name for the
02:32:40 16 record, spelling your last name.
02:32:43 17 THE WITNESS: Megan Van Horn, V-A-N capital H-O-R-N.
02:32:48 18 My preferred work name is Megan Weyler, W-E-Y-L-E-R.
02:32:48 19 EXAMINATION
02:32:48 20 BY MR. FOLEY:
02:32:56 21 Q. All right. So let's start in. You're the Senior Vice
02:32:59 22 President and the Chief Human Resources Officer at Drexel; is
02:33:04 23 that correct?
02:33:04 24 A. That's correct.
02:33:05 25 Q. And you've held that position since January 1st, 2020; is

02:33:09 1 that right?

02:33:09 2 A. That's correct.

02:33:11 3 Q. And that's the highest position in Human Resources at

02:33:16 4 Drexel, correct?

02:33:17 5 A. That's correct.

02:33:19 6 Q. All right. And as part of that position, you are aware of

02:33:25 7 and work with pay information for --

02:33:30 8 A. I oversee.

02:33:32 9 Q. Okay. And that's -- that includes salary information?

02:33:35 10 A. It does.

02:33:36 11 Q. And documents regarding salary information?

02:33:39 12 A. It does.

02:33:41 13 Q. And pay information?

02:33:43 14 A. Yes.

02:33:44 15 Q. All right. So I want to take us to the time of

02:33:52 16 September 19th, September 20th, before the judgment of

02:33:56 17 liability was entered in this case. There was a request by the

02:34:02 18 plaintiff that you participate in a meeting to provide access

02:34:09 19 to payroll documents about Drexel employees on the Drexel

02:34:17 20 database; isn't that right?

02:34:19 21 A. That is correct.

02:34:21 22 Q. All right. And what was requested was historical salary

02:34:26 23 information of professors in the Department of English and

02:34:29 24 Philosophy, correct?

02:34:31 25 A. Correct.

02:34:31 1 Q. And the request by plaintiff was that you meet in real
02:34:36 2 time and on Zoom and show these documents in real time; isn't
02:34:42 3 that right?
02:34:42 4 A. That's correct.
02:34:44 5 Q. All right. So it would be virtual access, correct?
02:34:48 6 A. Correct.
02:34:49 7 Q. All right. Let's talk about that meeting. On that day,
02:34:55 8 September 20th, you were prescheduled to be out of the office
02:34:59 9 that day, correct?
02:35:00 10 A. Correct.
02:35:02 11 Q. Beginning at 12 o'clock; is that right?
02:35:04 12 A. Yes.
02:35:05 13 Q. And that's because you were going on vacation, correct?
02:35:09 14 A. Yes. We were heading to the shore.
02:35:12 15 Q. Okay. And that's the Jersey Shore, of course?
02:35:15 16 A. Yes.
02:35:16 17 Q. All right. So at the time of the meeting you were in
02:35:19 18 Swedesboro, New Jersey, correct?
02:35:20 19 A. That's correct.
02:35:22 20 Q. And so when the meeting started, who was at this meeting?
02:35:26 21 It was attorney Leslie Greenspan, correct?
02:35:31 22 A. Correct.
02:35:31 23 Q. And Drexel in-house attorney, JuHwan Lee, correct?
02:35:37 24 A. Correct.
02:35:37 25 Q. And you, correct?

02:35:39 1 A. Yes.

02:35:39 2 Q. And then plaintiff, Professor Piety, joined the meeting,

02:35:44 3 correct?

02:35:44 4 A. Correct.

02:35:44 5 Q. And I joined it with her; isn't that right?

02:35:47 6 A. Yes, and the court reporter.

02:35:49 7 Q. There was no court reporter there.

02:35:53 8 A. I'm sorry. The recorder.

02:35:56 9 Q. Okay. Are you saying there was another person at the

02:36:01 10 meeting?

02:36:01 11 A. Oh, I'm so sorry, no. I'm thinking of the deposition

02:36:06 12 instead of the meeting that we were going to review the data.

02:36:10 13 Q. All right. Fair enough. So at the beginning of the

02:36:13 14 meeting, the plaintiff asked you to see the W-2s of Department

02:36:18 15 of English and Philosophy professors; isn't that right?

02:36:22 16 A. Correct.

02:36:23 17 Q. And your understanding was that that request was so that

02:36:28 18 plaintiff could actually verify pay information that had been

02:36:32 19 provided beforehand; is that right?

02:36:34 20 A. That is my understanding of the plaintiff's request, but

02:36:40 21 that's not my understanding of the data that was passed.

02:36:46 22 Q. Okay. But at the beginning of the meeting the plaintiff

02:36:49 23 asked for W-2s and to see the W-2s in real time on Drexel

02:36:56 24 database; isn't that right?

02:36:57 25 A. That's correct.

02:36:58 1 Q. Okay. And you responded that you did not have access to
02:37:02 2 those W-2s, correct?

02:37:04 3 A. That's correct.

02:37:05 4 Q. All right. Even though you are the highest ranking HR
02:37:10 5 person at Drexel?

02:37:11 6 A. That is correct. I have access to all the underlining
02:37:14 7 data for the W-2, but the payroll department, our executive
02:37:21 8 director of payroll is responsible for W-2s. She does not
02:37:23 9 report to HR.

02:37:23 10 Q. Okay. And that executive director of payroll is Rose
02:37:26 11 Flavin, correct?

02:37:26 12 A. That's correct.

02:37:27 13 Q. And you said that Rose Flavin was the only person who had
02:37:31 14 access to those documents, correct?

02:37:33 15 A. To my understanding. I'm sure that there may be another
02:37:37 16 persons in her department that would have access to it, but
02:37:41 17 she's the creator of those documents.

02:37:43 18 Q. All right. But you don't know of anyone else other than
02:37:46 19 Rose Flavin who has access?

02:37:48 20 A. I don't know.

02:37:50 21 Q. You don't know that you don't know or you don't know?

02:37:55 22 A. I don't know who has access besides Rose.

02:37:58 23 Q. Okay. All right. So when plaintiff asked to see those
02:38:08 24 W-2s and you said that you didn't have access and only Rose
02:38:13 25 Flavin had access, you then e-mailed Rose Flavin; is that

02:38:19 1 correct?

02:38:19 2 A. Correct.

02:38:20 3 Q. All right. And that e-mail was asking her to join this

02:38:27 4 Zoom meeting; is that correct?

02:38:27 5 A. Yes, but she was away on vacation.

02:38:27 6 Q. Okay. And --

02:38:32 7 A. I was trying to get you access to the W-2 information

02:38:36 8 while we were on the call.

02:38:38 9 Q. All right. And you didn't telephone her, did you?

02:38:41 10 A. No, I received her out of office as we were sending the

02:38:46 11 e-mail.

02:38:47 12 Q. Okay. And you remember I asked you for a copy of that

02:38:50 13 e-mail?

02:38:51 14 A. Offhand I don't remember, but...

02:38:57 15 Q. Okay. Do you remember -- refresh your recollection, you

02:39:00 16 remember at your deposition in October?

02:39:03 17 MS. GREENSPAN: Objection, Your Honor.

02:39:04 18 THE COURT: Basis? Just give me the rule.

02:39:09 19 MS. GREENSPAN: A ruling previously made by the Court.

02:39:15 20 THE COURT: Very quickly. Which ruling?

02:39:18 21 MS. GREENSPAN: About discovery.

02:39:21 22 THE COURT: This is inquiry. Just talking about the

02:39:23 23 deposition. He is asking a question about the deposition.

02:39:28 24 MS. GREENSPAN: About a document asked for at the

02:39:30 25 deposition.

02:39:33 1 THE COURT: I don't know what you're asking for. You
02:39:38 2 know the contours. You'll ask the question. If there is an
02:39:42 3 objection and if it's within the boundaries that I set then I
02:39:47 4 will sustain the objection. I will tell the jury not to pay
02:39:52 5 attention to that evidence. Just go ahead.

02:39:56 6 MR. FOLEY: Okay. So I asked you if you have that --
02:39:59 7 if you still have that e-mail. Do you remember that?

02:40:01 8 A. I'm sorry. I don't remember that.

02:40:06 9 Q. All right. And this -- all right. This deposition was
02:40:11 10 less than a month after the meeting; is that right?

02:40:13 11 A. Yes, around that time.

02:40:18 12 Q. All right. And when I asked if you might still have that
02:40:22 13 e-mail, you said that you might still not have it; isn't that
02:40:26 14 right?

02:40:26 15 A. I don't recall.

02:40:30 16 Q. Okay. And you said that you might not still have it
02:40:35 17 because you delete thousands of e-mails per day. Do you
02:40:40 18 remember saying that?

02:40:40 19 A. We do. Not necessarily, but I do. I don't have room in
02:40:46 20 storage for all the e-mails.

02:40:48 21 Q. All right. So after you e-mailed Rose Flavin to get her
02:40:59 22 during the meeting, you got her out of the office automatic
02:41:01 23 reply. After that you ended the Zoom call; is that right?

02:41:06 24 A. No, that's not correct.

02:41:08 25 Q. The Zoom call was ended; isn't that right?

02:41:11 1 A. I asked to provide the information that I had gathered the
02:41:18 2 previous night before. So I explained that I had brought
02:41:22 3 reports to be able to pull all the information that was
02:41:25 4 requested from specific time periods for specific people for
02:41:29 5 specific departments, and that I had both banner and reporting
02:41:33 6 system ready to show all the information that was requested,
02:41:36 7 and my understanding is that the plaintiff and counsel were not
02:41:41 8 looking for that data. They only wanted to see W-2s. So
02:41:45 9 counsel had ended the call.

02:41:47 10 Q. So after the call ended, you then went -- you said that
02:41:53 11 your family was waiting to leave for the shore; is that right?

02:41:56 12 A. Yes. We were going to leave around noon.

02:42:02 13 Q. All right. You finished packing up for the shore?

02:42:04 14 A. Yes.

02:42:05 15 Q. All right. And you did not -- you did not have Rose
02:42:12 16 Flavin join in that meeting; is that right?

02:42:13 17 A. That's correct. She was on vacation.

02:42:15 18 Q. And that day you were not in a meeting with Rose Flavin;
02:42:20 19 is that correct? On Zoom?

02:42:21 20 A. That's correct, yes.

02:42:22 21 Q. All right. Now, when you went to the shore, you knew that
02:42:27 22 this information was still information that the plaintiff
02:42:30 23 wanted; isn't that right?

02:42:32 24 A. Correct.

02:42:34 25 Q. All right. And when you went to the shore, you did not --

02:42:38 1 you didn't bring your computer with you; isn't that right?

02:42:41 2 A. Correct. I don't have access to that information that her

02:42:45 3 counsel wanted.

02:42:46 4 Q. All right. But if you brought your computer you could

02:42:49 5 have access to other pay information; isn't that right?

02:42:52 6 A. That's correct.

02:42:53 7 Q. Okay. You didn't bring it with you, right?

02:42:55 8 A. Correct.

02:42:57 9 Q. All right. Why didn't you bring it with you?

02:43:01 10 A. I was only going for two days, and this was a trip for my

02:43:06 11 parents. If I needed to access information and actually join

02:43:12 12 another Zoom call I would have driven the hour back home and

02:43:18 13 actually worked.

02:43:18 14 Q. And so you would rather drive an hour back home and work

02:43:22 15 rather than just bring your computer with you?

02:43:25 16 A. No. I work on vacation every vacation. This was just a

02:43:30 17 48-hour trip, so I didn't think I would need it.

02:43:34 18 Q. And you got a call later that day from someone at Drexel;

02:43:39 19 isn't that right?

02:43:39 20 A. Yes, from counsel JuHwon Lee.

02:43:44 21 Q. All right. And you couldn't provide any data because you

02:43:47 22 didn't bring your computer, correct?

02:43:49 23 A. I wasn't asked for data.

02:43:52 24 Q. Okay. But you weren't able to provide it anyway, right?

02:43:57 25 A. If I needed to provide data I could have provided data.

02:44:04 1 I -- again, I was an hour away from my home. If I needed to
02:44:07 2 actually work over that weekend, I could have just gone home
02:44:11 3 and left my family there.

02:44:13 4 Q. All right. And don't you always bring your laptop on
02:44:17 5 vacations?

02:44:17 6 A. Yes, just about.

02:44:20 7 Q. Right. But not this time?

02:44:24 8 A. No. Again, this was a trip for my parents. I didn't
02:44:28 9 expect to need to work in that 48 hours.

02:44:31 10 Q. All right. I have no further questions.

02:44:37 11 THE COURT: Cross?

02:44:37 12 CROSS-EXAMINATION

02:44:37 13 BY MS. GREENSPAN:

02:44:43 14 Q. Good afternoon, Ms. Weyler. Can you hear me okay?

02:44:46 15 A. I can. Good afternoon.

02:44:49 16 Q. Counsel asked you some questions about a meeting on
02:44:53 17 September 20th, 2024. I want to just ask you some more
02:44:57 18 questions about that. What had you done to prepare for that
02:45:01 19 meeting?

02:45:01 20 A. Well, on the 19th I was given very specific parameters for
02:45:08 21 a data request that was needed, where I needed to provide
02:45:11 22 salary information from a period of May of 2019 through, I
02:45:18 23 believe, September of 2024 for very specific individuals in the
02:45:23 24 department. So after talking with counsel, understanding that
02:45:26 25 that meeting had to happen that next day, I went home, I logged

02:45:32 1 into the systems. I got this the request late on my drive
02:45:36 2 home.

02:45:36 3 I logged into our Hyperion system, which is our reporting
02:45:42 4 database. I built a report to pull those specific parameters
02:45:47 5 that provided all of the payroll data for those individual
02:45:52 6 employees for that time period as well as all the salary
02:45:55 7 information. And that was just in preparation for a call at
02:46:01 8 11 o'clock the next day.

02:46:03 9 Q. When you say "salary information" are you talking about
02:46:06 10 the salaries of the various professors in the Department of
02:46:10 11 English and Philosophy?

02:46:13 12 A. That's correct.

02:46:14 13 Q. And you had that information at the ready; is that right?

02:46:18 14 A. Yes. I had both the annual salary details as well as all
02:46:23 15 the payroll information.

02:46:24 16 Q. At the meeting on September 20th, were you ready to show
02:46:29 17 Dr. Piety and her counsel any and every piece of payroll
02:46:34 18 information that they would have asked for?

02:46:36 19 A. Yes. With the exception of some personal information that
02:46:40 20 normally wouldn't, such as the Social Security numbers and
02:46:43 21 dates of birth, just personal identifiable information I left
02:46:49 22 out of the report.

02:46:49 23 Q. When you -- you were part of a Zoom and you were -- how is
02:46:55 24 that going to work? If we were in real time and you're on
02:47:00 25 Zoom, how -- just sort of highlight how does that work?

02:47:04 1 A. So the system is web based, so I was going to pull up both
02:47:10 2 systems. Hyperion is the first, and that's the reporting
02:47:11 3 database. That would allow the plaintiff's counsel to actually
02:47:14 4 see all the parameters to see the department codes that were
02:47:18 5 being pulled, the time frames that we were pulling, as well as
02:47:21 6 the output of all of that information.

02:47:24 7 From there, we could verify individuals, such as Dr. Piety
02:47:29 8 could view all the information. She'd be able to see the
02:47:32 9 accuracy of her own records. And then we go into the Banner
02:47:36 10 system, and the Banner system is our fully integrated system,
02:47:40 11 so it houses all of our student information, Human Resources,
02:47:47 12 accounts payable, vendors, everything. It's one combined
02:47:49 13 system.

02:47:49 14 From there we go into the Banner system and we could
02:47:53 15 verify, double-check, view each of the payroll records, view of
02:47:59 16 the general detail records that has all the salary information.
02:48:02 17 So it's pretty much everything that you could have -- possibly
02:48:06 18 have access to for HR and payroll.

02:48:09 19 Q. So would that have included, in addition to salary
02:48:12 20 information that you were prepared to show them, would that
02:48:14 21 have also included any administrative supplements that these
02:48:19 22 professors receive?

02:48:20 23 A. Yes. So both Banner and Hyperion report contained all job
02:48:25 24 detail. So a faculty member may have multiple positions. Many
02:48:30 25 have extra teaching, so outside of normal teaching load, we

02:48:34 1 provide additional compensation for additional teaching.

02:48:38 2 We provide additional compensation for research, as well

02:48:41 3 as any type of administrative supplement for the department

02:48:44 4 heads, program managers, and things like that. So every person

02:48:47 5 may have multiple roles and jobs, and all that information

02:48:50 6 would have been displayed both in the payroll records as well

02:48:55 7 as the --

02:48:55 8 Q. Were you willing to share all of that information with

02:48:58 9 Dr. Piety and her counsel on that day?

02:49:00 10 A. Yes, I was.

02:49:02 11 Q. Were you able to share all of that information with

02:49:05 12 Dr. Piety and her counsel that day?

02:49:07 13 A. Yes.

02:49:08 14 Q. Were you willing to share all of that information with

02:49:12 15 Dr. Piety and her counsel that day?

02:49:14 16 A. Yes.

02:49:15 17 Q. And you mentioned that you didn't have access to --

02:49:20 18 THE COURT: Sidebar.

02:49:43 19 (Sidebar conference follows:)

02:49:43 20 THE COURT: Mr. Piety, was this meeting following the

02:49:47 21 order that I issued on 19th of September which spoke of

02:49:52 22 plaintiff's counsel access to Drexel University payroll

02:49:55 23 database, Keyanah Jones' laptop, and some other issues about

02:50:03 24 live testimony of Leslie Miller Greenspan. Is that the order

02:50:07 25 that we're talking about here?

02:50:08 1 MR. FOLEY: This was pursuant to the order on the
02:50:11 2 19th, not the 20th.

02:50:12 3 THE COURT: Is this the order you're talking about?

02:50:17 4 MR. FOLEY: Yes.

02:50:18 5 THE COURT: Okay. Did you show this to the witness?

02:50:22 6 MS. GREENSPAN: I don't believe I did, Your Honor.

02:50:24 7 THE COURT: This is coming in. I am just going to ask
02:50:28 8 her some questions on it.

02:50:48 9 (Sidebar conference ends.)

02:50:48 10 THE COURT: Ms. Van Horn, this is Judge Beetlestone.
02:50:51 11 Can you hear me? Ms. Van Horn, can you hear me?

02:50:57 12 A. I can, faintly. I'm having a hard time hearing you.

02:50:57 13 THE COURT: Can you hear me?

02:51:02 14 A. I didn't know if you were talking to me.

02:51:02 15 THE COURT: Can you hear me now?

02:51:06 16 A. Yes.

02:51:07 17 THE COURT: Okay. Prior to this meeting, did your
02:51:13 18 lawyer provide you with an order issued by myself on the 19th
02:51:19 19 of September explaining what you were required to provide to
02:51:24 20 the plaintiff?

02:51:26 21 A. Yes, I was given all the parameters needed to provide to
02:51:30 22 the plaintiff.

02:51:30 23 THE COURT: So the order said before 12:00 p.m. on
02:51:36 24 September 20th, 2024, defendant shall provide plaintiff and
02:51:41 25 plaintiff's counsel access to a Drexel University payroll

02:51:45 1 database containing the historical salary information of all
02:51:51 2 professors in the Department of English and Philosophy from May
02:51:52 3 9th, 2019, to the present. Is that what you did?
02:51:56 4 A. That is exactly what I did.
02:51:58 5 THE COURT: Did you provide them access to the
02:52:00 6 database?
02:52:01 7 A. I was ready and willing to provide access to the database,
02:52:05 8 but counsel decided he did not want that access, that he was
02:52:09 9 looking for W-2s instead, which the parameters of W-2s do not
02:52:14 10 fall within the request that we were given.
02:52:16 11 THE COURT: Okay. So you had this meeting by Zoom; is
02:52:19 12 that correct?
02:52:19 13 A. That's correct.
02:52:21 14 THE COURT: And you did not have access to the
02:52:27 15 database that was controlled by -- I think you said it was the
02:52:37 16 HR person or the --
02:52:39 17 A. The payroll person.
02:52:41 18 THE COURT: The payroll person. You did not have
02:52:42 19 access to that; is that correct?
02:52:43 20 A. That's correct.
02:52:45 21 THE COURT: And you didn't provide the plaintiff
02:52:47 22 access to that?
02:52:48 23 A. Correct, but for clarity, the W-2 doesn't fall within that
02:52:53 24 parameter. W-2s are all calendar-year basis, so I couldn't
02:52:58 25 pull a May of 2019 through June of -- or September of 2024 for

02:53:02 1 a W-2.

02:53:03 2 THE COURT: Are those W-2s in the payroll database?

02:53:09 3 A. The W-2s are in the payroll database, yes.

02:53:10 4 THE COURT: Okay. And I said -- and I ordered that

02:53:11 5 defendant shall provide plaintiff and plaintiff's counsel

02:53:14 6 access to a Drexel University payroll database containing the

02:53:16 7 historical salary information of all professors in the

02:53:19 8 Department of English and Philosophy from May 9th, 2019, to the

02:53:23 9 present. So you did that?

02:53:24 10 A. That is exactly what I did.

02:53:28 11 THE COURT: Go ahead.

02:53:31 12 MS. GREENSPAN: I don't have any further questions,

02:53:33 13 Your Honor. Thank you.

02:53:34 14 THE COURT: Recross?

02:53:34 15 RE-CROSS EXAMINATION

02:53:34 16 BY MR. FOLEY:

02:53:40 17 Q. Ms. Weyler, you testified Ms. Greenspan asked you if you

02:53:45 18 were ready to provide administrative information about salary

02:53:50 19 and administrative supplements; is that correct?

02:53:53 20 A. That's correct.

02:53:55 21 Q. Okay. You said that. I want to show you an Exhibit.

02:54:00 22 MR. FOLEY: Could you call up Exhibit 5, please?

02:54:24 23 All right. I would like to -- this is joint

02:54:27 24 Exhibit 5. I'd like to offer this into evidence.

02:54:30 25 THE COURT: Any objection?

02:54:31 1 MS. GREENSPAN: No, Your Honor. This one is
02:54:33 2 stipulated to.
02:54:34 3 THE COURT: It's admitted. Published.
02:54:37 4 (Exhibit No. 5 admitted into evidence.).
02:54:37 5 BY MR. FOLEY:
02:54:39 6 Q. Ms. Weyler, this is Exhibit 5. You're aware that this
02:54:43 7 exhibit was provided to the plaintiff two days after the
02:54:48 8 September 20th meeting?
02:54:50 9 A. I'm sorry. I'm unable to see the exhibit.
02:54:55 10 Q. You're unable to see the exhibit? All right. We are
02:54:58 11 going to get it shared here. Can you see it now?
02:55:14 12 A. I can see the exhibit now. I can.
02:55:17 13 Q. And this provides salary information; is that right?
02:55:23 14 A. I don't know that I have ever seen this document before.
02:55:23 15 Q. All right.
02:55:28 16 A. Can you help me...
02:55:30 17 Q. Well, I am going to ask you, does this document say
02:55:35 18 anything at all? In fact, this document doesn't say anything
02:55:40 19 at all about administrative supplements, does it?
02:55:43 20 A. I cannot tell from just this. This looks like a primary
02:55:59 21 doc label. I don't know what the parameters were for the
02:56:03 22 report.
02:56:03 23 Q. Okay. There are no entries here about the administrative
02:56:08 24 supplements; isn't that right?
02:56:09 25 A. I don't see any on this page, no.

02:56:17 1 Q. All right. So let's look down at John Kurtz. See that?
02:56:20 2 It's organized alphabetically by first names?
02:56:25 3 A. Can you increase the size of this document?
02:56:28 4 Q. I will try. It's not my computer, but I will give it a
02:56:56 5 shot. Can you see it now?
02:56:57 6 A. I can see this a little better. And I'm sorry. Who am I
02:57:01 7 looking for?
02:57:01 8 Q. I'm having you look down at John Kurtz. Do you see that?
02:57:07 9 It's organized by first name --
02:57:09 10 A. I do.
02:57:10 11 Q. -- for some reason?
02:57:11 12 A. Yes, I see him.
02:57:13 13 Q. Okay. And let's look at that. Going across that line, it
02:57:18 14 says, Professor, Department Head, English and Philosophy; isn't
02:57:22 15 that right?
02:57:22 16 A. That's correct.
02:57:23 17 Q. And then it says -- has salary lines below that. Now,
02:57:28 18 below this -- just for reference -- is Marilyn Piety, right?
02:57:32 19 A. Correct.
02:57:33 20 Q. Okay. So as we see the salary through the years, it says
02:57:38 21 professor, department head, English and Philosophy, and it has
02:57:42 22 a salary figure. It doesn't say anything about administrative
02:57:46 23 supplements.
02:57:47 24 A. I don't know what the request was for this specific
02:57:51 25 report. I don't know if this is asking for a total

02:57:54 1 compensation for 2019, and what is the primary role, or if this
02:57:59 2 was asking just for base salary for an individual. So I don't
02:58:04 3 know who created the report or what the parameters were for
02:58:07 4 this request.

02:58:08 5 Q. All right. But you said you were ready two days before
02:58:11 6 this to provide information that would include administrative
02:58:15 7 supplements. That's what you testified this morning -- this
02:58:17 8 afternoon, right?

02:58:18 9 A. That is correct.

02:58:19 10 Q. And this information was provided two days later says
02:58:23 11 nothing about administrative supplements, does it?

02:58:26 12 A. Who provided this information and what was requested for
02:58:29 13 the information?

02:58:31 14 Q. Drexel provided this information.

02:58:34 15 A. Again, I was not part of this report. I was not part of
02:58:40 16 this request. So I don't know who requested it, who created it
02:58:45 17 and what was asked for. This could be total compensation for
02:58:49 18 2019 or it could be base salaries. I am not sure.

02:58:52 19 Q. Okay. So it's -- so let's look again at John Kurtz. Take
02:58:57 20 a look over at the far -- at the second to the right because I
02:59:01 21 think that our images are taking up part of the screen, but
02:59:06 22 take a look at the second column to the right, 2023. It says
02:59:10 23 John Kurtz would get over \$ [REDACTED]. Do you see that?

02:59:17 24 A. Yes.

02:59:18 25 Q. And in -- one reading this would think that this says

02:59:23 1 professor, Department Head, and that that \$ [REDACTED] is what is
02:59:28 2 being paid for his work as professor and Department Head; isn't
02:59:34 3 that right?
02:59:34 4 A. I cannot confirm. I'd have to pull up the database to
02:59:38 5 actually confirm the information.
02:59:38 6 Q. Well, ma'am --
02:59:40 7 A. I don't know what the parameters are.
02:59:42 8 Q. I'm not asking you to confirm the information. I'm saying
02:59:43 9 this would appear to be a salary for someone working as
02:59:48 10 professor and Department Head, right?
02:59:51 11 A. It could be a salary or it could be the total compensation
02:59:55 12 for all of the jobs.
02:59:55 13 Q. Right.
02:59:57 14 A. Again, I was not part of this.
02:59:57 15 Q. So --
02:59:59 16 A. It could include his supplement or it couldn't. I am not
03:00:02 17 sure.
03:00:03 18 Q. Correct. So when we look below it, at Marilyn Piety, the
03:00:09 19 plaintiff in the case, look at her salary. It says, Marilyn
03:00:10 20 Piety, professor, [REDACTED] -- \$ [REDACTED]. Do you see that?
03:00:18 21 A. I do.
03:00:19 22 Q. So it would look like she is being paid that money to be
03:00:24 23 professor in 2023, correct?
03:00:26 24 A. I can assume, yes.
03:00:29 25 Q. And just above, it looks like John Kurtz, Roger Kurtz is

03:00:34 1 being paid [REDACTED] et cetera, to be a professor and Department
03:00:39 2 Head; isn't that right?

03:00:39 3 A. Again, I cannot confirm that that [REDACTED] is for his professor
03:00:46 4 position, it's for his professor Department Head or if it's for
03:00:52 5 his professor department head, plus any other administrative
03:00:54 6 stipends or additional teaching that he had.

03:00:56 7 MR. FOLEY: Exactly. That's exactly what I'm trying
03:00:59 8 to point out here. Thanks.

03:01:04 9 No further questions.

03:01:05 10 THE COURT: Next witness.

03:01:12 11 You can take Ms. Van Horn off the screen.

03:01:59 12 Are you the next witness?

03:02:02 13 A. Yes.

03:02:03 14 THE COURT: Come on up.

03:02:05 15 MR. FOLEY: I call on Rose Flavin.

03:02:14 16 THE COURT: Please swear in the witness.

03:02:14 17 (ROSE MARIE FLAVIN, sworn.)

03:02:14 18 A. Yes, I do.

03:02:14 19 THE DEPUTY CLERK: Please state your full name for the
03:02:14 20 record, spelling your last name.

03:02:25 21 A. Rose Marie Flavin, F-L-A-V-I-N.

03:02:32 22 THE COURT: Your witness.

03:02:32 23 DIRECT EXAMINATION

03:02:32 24 BY MR. FOLEY:

03:02:34 25 Q. Good afternoon, Ms. Flavin. How are you today?

03:02:37 1 A. Good. How are you?

03:02:38 2 Q. Good. Thank you. We met -- we've met a few times in this

03:02:42 3 case; isn't that right?

03:02:43 4 A. Yes.

03:02:43 5 Q. All right. We met in October for depositions in this

03:02:48 6 case, correct?

03:02:49 7 A. Yes.

03:02:49 8 Q. And also met for a meeting at Drexel to look at data on

03:02:55 9 the computer in the databases, correct?

03:02:58 10 A. Yes.

03:02:59 11 Q. All right. And also in January, once again, in order to

03:03:03 12 view the data once again; isn't that right?

03:03:05 13 A. Yes.

03:03:06 14 Q. All right. So you are the Executive Director of Payroll

03:03:13 15 Operations at Drexel University?

03:03:14 16 A. Yes, I am.

03:03:15 17 Q. And you have been doing that since July 15th, 2024?

03:03:19 18 A. Yes.

03:03:19 19 Q. And you've worked at Drexel itself since 2007, right?

03:03:24 20 A. Yes.

03:03:24 21 Q. Okay. Your job is to oversee the payroll office, correct?

03:03:28 22 A. Yes.

03:03:28 23 Q. You're the head payroll person?

03:03:31 24 A. Yes, I am.

03:03:32 25 Q. All right. And you have a staff at the payroll office

03:03:36 1 that you have, right?

03:03:37 2 A. I do, yes.

03:03:38 3 Q. And that's a staff of six people, correct?

03:03:40 4 A. Correct.

03:03:41 5 Q. All right. And all of those six people are able to access

03:03:46 6 the payroll information, such as W-2s, correct?

03:03:50 7 A. Yes, they are.

03:03:51 8 Q. All right. And there's even two more people in the IT

03:03:56 9 information technology department at Drexel who are able to

03:03:59 10 access W-2s on the Drexel database, right?

03:04:03 11 A. Yes.

03:04:04 12 Q. All right. So including you, that's nine people at Drexel

03:04:07 13 who can access it?

03:04:09 14 A. Yes.

03:04:09 15 Q. Anybody else?

03:04:10 16 A. Not to my knowledge.

03:04:11 17 Q. Okay. So when H -- when someone at HR needs to get W-2s,

03:04:21 18 they can't get them themselves?

03:04:24 19 A. No, they can't.

03:04:25 20 Q. All right. So they call over to payroll, right?

03:04:28 21 A. Correct.

03:04:29 22 Q. But they don't have to call just you, do they?

03:04:32 23 A. No. They do not.

03:04:33 24 Q. All right. And people in HR know that you're not the only

03:04:37 25 person who can get a W-2 at Drexel, right?

03:04:41 1 A. They do. They would contact the payroll inbox. Some
03:04:47 2 requests come right to me.
03:04:48 3 Q. Okay. But not all requests go right to you, right?
03:04:52 4 A. No.
03:04:52 5 Q. And people can make requests through other people in
03:04:56 6 payroll without involving you, right?
03:04:58 7 A. Yes.
03:04:59 8 Q. Okay. So let's go to September 20th. We want to talk
03:05:03 9 about that. Are you aware that there was a requirement for a
03:05:09 10 meeting to be held? It was on Zoom, but the requirement for
03:05:15 11 the meeting to be held with Professor Piety, her counsel, and
03:05:20 12 somebody from Drexel to provide payroll information as Judge --
03:05:27 13 to provide payroll information?
03:05:30 14 A. I'm aware that there was a request. I was not aware of
03:05:33 15 that until the afternoon of Friday, September 20th.
03:05:38 16 Q. Okay. So let's talk about September 20th. There were
03:05:42 17 four people working in payroll that day, correct?
03:05:44 18 A. Yes.
03:05:44 19 Q. And you weren't working that day?
03:05:46 20 A. I was not working.
03:05:47 21 Q. You were on vacation?
03:05:49 22 A. I was.
03:05:49 23 Q. All right. Were you unreachable that day?
03:05:52 24 A. No, I was reachable.
03:05:53 25 Q. Okay. You were at home, right?

03:05:55 1 A. Yes.

03:05:55 2 Q. Okay. And this was the Friday before the Monday when

03:06:00 3 classes start, correct?

03:06:02 4 A. I believe so, yes.

03:06:03 5 Q. All right. So a busy day in payroll?

03:06:06 6 A. The academic calendar doesn't affect the payroll

03:06:11 7 department.

03:06:12 8 Q. Okay. So I want to ask you to tell us how you heard about

03:06:16 9 the request to see W-2s?

03:06:19 10 MS. GREENSPAN: Objection. Privilege.

03:06:21 11 THE COURT: To the extent that the request -- you got

03:06:24 12 the request from your attorney, you do not need to answer that

03:06:27 13 question.

03:06:27 14 BY MR. FOLEY:

03:06:31 15 Q. So how did you hear about the request -- the plaintiff's

03:06:35 16 request to see W-2s?

03:06:38 17 A. Megan Weyler called me and asked me if I would get on a

03:06:41 18 call with Leslie Greenspan and JuHwon How -- JuHwon who -- to

03:06:49 19 discuss the accessing the W-2s.

03:06:50 20 Q. All right. When you say JuHwon, that's JuHwon Lee?

03:06:53 21 A. Yes.

03:06:53 22 Q. And JuHwon Lee is in-house counsel at Drexel?

03:06:57 23 A. Correct.

03:06:58 24 Q. All right. And so Megan Weyler called you on your

03:07:02 25 personal cell phone to get you on to a meeting at lunch time,

03:07:08 1 correct?

03:07:09 2 A. Yes.

03:07:09 3 Q. Okay. Around lunchtime?

03:07:11 4 A. Yes.

03:07:11 5 Q. All right. And she said for you to get on to a Zoom call;

03:07:18 6 is that right?

03:07:18 7 A. She asked if I was available to get on to a Zoom call.

03:07:23 8 Q. Okay. And this was by telephone, right?

03:07:25 9 A. Telephone or text message. She contacted me on my

03:07:30 10 personal cell phone.

03:07:31 11 Q. All right. And you responded, right?

03:07:32 12 A. Yes.

03:07:32 13 Q. All right. And then you got on to the Zoom call; isn't

03:07:37 14 that right?

03:07:37 15 A. Yes.

03:07:38 16 Q. So you joined a Zoom call around lunchtime with Megan

03:07:43 17 Weyler, correct?

03:07:44 18 A. Yes.

03:07:45 19 Q. And you joined the Zoom call that also had Leslie

03:07:52 20 Greenspan -- on it, right?

03:07:54 21 A. Yes.

03:07:55 22 Q. And JuHwon Lee, Drexel in-house counsel, right?

03:08:00 23 A. Yes.

03:08:00 24 Q. All right. So Megan was on that Zoom call with you,

03:08:03 25 correct?

03:08:03 1 A. Yes.

03:08:04 2 Q. All right. You could have accessed W-2s, right?

03:08:07 3 A. I could -- at that point could I access W-2s?

03:08:14 4 Q. Yes.

03:08:14 5 A. I could have, yes.

03:08:15 6 Q. Okay. You could have shared them on the computer screen

03:08:17 7 on Zoom, right?

03:08:19 8 A. Yes.

03:08:20 9 Q. Okay. Now, later that afternoon -- we talked about this

03:08:26 10 in your deposition -- Megan Weyler texted you later that

03:08:30 11 afternoon between 4:30 and 5:00; isn't that right?

03:08:34 12 A. Yes.

03:08:34 13 Q. And asked you to get on a call?

03:08:37 14 A. Yes.

03:08:38 15 Q. And that call was with Attorney Greenspan; is that right?

03:08:42 16 A. Yes, and JuHwon Lee.

03:08:44 17 Q. And JuHwon Lee, okay. And you got on the call with them,

03:08:49 18 right?

03:08:49 19 A. Yes, I did.

03:08:51 20 Q. All right. Now, after that phone call, was it your

03:08:57 21 understanding that there would be a meeting to show the W-2s to

03:09:03 22 Professor Piety?

03:09:03 23 A. No. That was not my understanding.

03:09:05 24 Q. All right. So that night, what did you do?

03:09:09 25 A. I received a follow-up e-mail requesting the copies of the

03:09:17 1 W-2s.

03:09:18 2 Q. Okay. And what did you do?

03:09:21 3 A. I downloaded the W-2s from the payroll system and sent

03:09:26 4 them to Leslie and JuHwon.

03:09:28 5 Q. All right. Saved them in PDF, right?

03:09:32 6 A. Yes.

03:09:33 7 Q. All right. And after that, after you sent them, did you

03:09:35 8 do anything else?

03:09:37 9 A. No, I did not.

03:09:39 10 Q. All right. And what about any e-mails over that weekend?

03:09:43 11 A. Leslie sent me an e-mail on Saturday morning, but I did

03:09:48 12 not respond until Monday.

03:09:49 13 Q. All right. Why didn't did you respond until Monday?

03:09:52 14 A. I didn't work over the weekend.

03:09:55 15 Q. All right. Did you read your e-mail over the weekend?

03:09:57 16 A. No, I did not.

03:09:59 17 Q. All right. So you don't read your work e-mail on the

03:10:02 18 weekend?

03:10:02 19 A. It depends on the weekend.

03:10:04 20 Q. Okay. And this weekend before classes started, not going

03:10:08 21 to read your e-mail?

03:10:09 22 A. The academic calendar does not impact the payroll

03:10:13 23 department.

03:10:13 24 Q. All right. This weekend, knowing that W-2 information is

03:10:17 25 being sought, you didn't read your e-mail?

03:10:20 1 A. No, I did not.

03:10:21 2 Q. All right. All right. You did a declaration in this

03:10:25 3 case. Do you remember that?

03:10:26 4 A. Yes, I do.

03:10:27 5 Q. All right. I want to look at that. It's at the end of

03:10:32 6 the exhibits.

03:10:35 7 THE COURT: Which exhibit number is it?

03:10:38 8 MR. FOLEY: It's at the end in the flap. It's --

03:10:41 9 Counsel and I talked about it last night.

03:10:43 10 THE COURT: What number is it?

03:10:45 11 MR. FOLEY: It's not numbered, Your Honor.

03:10:47 12 THE COURT: Well, I need it.

03:10:49 13 MR. FOLEY: It's in the back flap of Volume II.

03:10:56 14 THE COURT: I don't have the volumes.

03:10:58 15 MR. FOLEY: I will get you one.

03:11:00 16 THE COURT: Is it on the list?

03:11:02 17 MR. FOLEY: It's not on the list, Your Honor.

03:11:06 18 THE COURT: I need to view it.

03:11:12 19 MR. FOLEY: Okay.

03:11:13 20 THE COURT: We'll mark that. This is 99. And a Megan

03:11:18 21 Weyler declaration; is that correct -- or I'm sorry. Rose

03:11:24 22 Flavin declaration; is that right?

03:11:29 23 MR. FOLEY: Yes.

03:11:31 24 THE COURT: Just take the document out of there. I

03:11:34 25 don't need the whole thing.

03:11:36 1 MR. FOLEY: Yes, Your Honor.

03:11:45 2 THE COURT: Okay. Are you seeking to have this

03:11:47 3 admitted?

03:11:47 4 MR. FOLEY: Yes, I am, Your Honor.

03:11:49 5 THE COURT: Any objection?

03:11:50 6 MS. GREENSPAN: No objection.

03:11:51 7 THE COURT: It is admitted, published. We're going to

03:11:54 8 call it Exhibit 99.

03:11:56 9 (Exhibit 99 admitted into evidence.).

03:11:57 10 MR. FOLEY: I am going to do a share screen.

03:12:01 11 MS. GREENSPAN: I'm sorry, Your Honor. He's sharing

03:12:04 12 a deposition transcript on the screen.

03:12:04 13 BY MR. FOLEY:

03:12:44 14 Q. All right. Can you see that, Ms. Flavin?

03:12:46 15 A. I can.

03:12:47 16 Q. Okay. I'm going to take you to the end of the

03:12:51 17 declaration, here it's dated September 30th. Do you see that?

03:12:54 18 A. Yes.

03:12:55 19 Q. And is that your signature?

03:12:57 20 A. Yes, it is.

03:12:58 21 Q. All right. It says, I declare the under penalty of

03:13:01 22 perjury that the foregoing is true and correct?

03:13:04 23 A. Yes.

03:13:05 24 Q. Okay. So how was this created? Did you create this?

03:13:08 25 A. I did not.

03:13:09 1 Q. Who created it?

03:13:10 2 A. Counsel shared it with me.

03:13:12 3 Q. Okay. What is counsel? Who's counsel?

03:13:14 4 A. Leslie Greenspan, JuHwon How- -- JuHwon Lee.

03:13:17 5 Q. Okay. What do you mean by "shared with you"?

03:13:19 6 A. They sent me the PDF via e-mail.

03:13:22 7 Q. Okay. And did you write it?

03:13:24 8 A. I reviewed it. Offered my edits. It was edited.

03:13:31 9 Q. Okay. All right. So let's look at this declaration. All

03:13:38 10 right.

03:13:38 11 A. Can you make it bigger?

03:13:40 12 Q. I'll try.

03:13:45 13 A. Thank you.

03:13:46 14 Q. All right. So let's look at this. Paragraph 3 here, it

03:13:52 15 says, Nonetheless, when I was contacted about this matter on

03:13:56 16 Friday afternoon, September 20th, 2024, around or after the

03:14:01 17 close of business, I undertook to compile the W-2s of 23 Drexel

03:14:08 18 employees from 2019 to 2023. Did I read that right?

03:14:12 19 A. Yes.

03:14:13 20 Q. All right. Before that, it doesn't say anything about you

03:14:15 21 being contacted, right? Look in the paragraphs before that.

03:14:20 22 A. No, it does not.

03:14:22 23 Q. Okay. Now, this declaration doesn't say anything about

03:14:30 24 Megan Weyler calling or texting you around lunch, does it?

03:14:35 25 A. No, it does not.

03:14:36 1 Q. All right. And this declaration doesn't say anything
03:14:39 2 about you hopping on to a Zoom call around lunch with Megan
03:14:44 3 Weyler, Attorney Greenspan, and Attorney JuHwon Lee, does it?
03:14:49 4 A. The details of how I was contacted are not contained
03:14:54 5 there.
03:14:55 6 Q. All right. In fact, no information at all about you being
03:14:58 7 contacted is contained here, is it?
03:15:00 8 A. No.
03:15:01 9 Q. Why didn't you put that in here?
03:15:04 10 A. I didn't know that it was necessary.
03:15:08 11 Q. All right. And this was ten days after. September 30th
03:15:19 12 is the day ten days after that meeting, right?
03:15:22 13 A. Correct.
03:15:23 14 Q. All right. Understand the somebody reading this
03:15:37 15 declaration must think that you had not been contacted before
03:15:43 16 Friday afternoon after the close of business, right?
03:15:45 17 A. Could you repeat the question?
03:15:47 18 Q. Sure. You understand that anybody reading this would not
03:15:49 19 think you had been contacted at any time before the close of
03:15:54 20 business on Friday, September 20th, right?
03:15:57 21 A. I believe the vagueness "on Friday afternoon" leaves that
03:16:02 22 as open ended.
03:16:03 23 Q. Okay. But what about the following clause, "around or
03:16:09 24 after the close of business"? It's not real vague, is it?
03:16:13 25 A. No.

03:16:14 1 Q. All right. So that means probably after 5 o'clock, right?

03:16:18 2 A. On or around, yes.

03:16:19 3 Q. All right. Doesn't mean lunch time, right?

03:16:22 4 A. Correct.

03:16:22 5 Q. Right. All right. All right. So let's talk about --

03:16:35 6 take this down. Let's talk about the October -- let's talk

03:16:39 7 about the meeting that you had at Drexel to show Professor

03:16:46 8 Piety W-2s on the Drexel system. Do you remember that meeting?

03:16:50 9 A. Yes, I do.

03:16:52 10 Q. That was October 16th, correct?

03:16:55 11 A. Yes.

03:16:55 12 Q. Right. And at that meeting, was Attorney Leslie

03:17:00 13 Greenspan, right?

03:17:00 14 A. Yes.

03:17:01 15 Q. And Professor Piety?

03:17:02 16 A. Yes.

03:17:02 17 Q. And I, right?

03:17:04 18 A. Yes.

03:17:05 19 Q. And it wasn't held in your office, right?

03:17:07 20 A. No, it was not.

03:17:08 21 Q. It was held in Megan Weyler's office, correct?

03:17:11 22 A. Yes, it was.

03:17:12 23 Q. Now, she wasn't there, right?

03:17:15 24 A. She was not there.

03:17:16 25 Q. Right. And that's because you work remotely from Drexel?

03:17:19 1 A. Yes, I do.

03:17:20 2 Q. Okay. So you don't have an office at Drexel?

03:17:22 3 A. No, I do not.

03:17:23 4 Q. All right. Do you remember that meeting and you showed

03:17:26 5 some W-2s in real time, right?

03:17:28 6 A. Yes.

03:17:28 7 Q. All right. But those W-2s were shown in -- we had some

03:17:33 8 discussion about this -- those W-2s were shown in Adobe,

03:17:38 9 correct?

03:17:39 10 A. No, that's not correct.

03:17:41 11 Q. Okay. But those PDFs were shown in your browser, and you

03:17:48 12 said that they could be edited in Adobe; is that right?

03:17:52 13 A. They were shown in Google Chrome, and my Google Chrome

03:17:56 14 application has an Adobe extension.

03:18:00 15 Q. Okay. But those PDFs we looked at in the meeting, those

03:18:08 16 could be edited in Adobe, right?

03:18:12 17 A. Any PDF could be edited in Adobe.

03:18:15 18 Q. Okay. So those PDFs could be edited, right?

03:18:19 19 A. If you have editing software for Adobe, yes.

03:18:23 20 Q. Okay. All right. So now, let's talk about there was than

03:18:26 21 additional meeting after that; isn't that right?

03:18:29 22 A. Yes.

03:18:29 23 Q. That meeting was on -- I'm sorry. Let me back up a

03:18:34 24 moment. About more thing about that meeting. At that meeting,

03:18:37 25 some information about Andrew Smith came up on the screen;

03:18:41 1 isn't that right?

03:18:41 2 A. I believe so.

03:18:42 3 Q. And the information showed that he has salary or pay of

03:18:45 4 around \$ [REDACTED]; isn't that right?

03:18:48 5 A. I don't remember that detail.

03:18:50 6 Q. Okay. Do you remember you explained that it was a glitch

03:18:53 7 in the system?

03:18:54 8 A. What I remember is the W-2 was not being pulled up for the

03:19:01 9 correct employee, and we had to reset. The salary history that

03:19:06 10 we were showing you was incorrect because it wasn't -- the form

03:19:09 11 was not working.

03:19:10 12 Q. Okay. And Andrew Smith actually makes less than [REDACTED];

03:19:10 13 isn't that right?

03:19:19 14 A. I believe so, yes.

03:19:20 15 Q. Okay. About [REDACTED]?

03:19:23 16 A. Yes.

03:19:27 17 Q. Okay. All right. So then there was another meeting that

03:19:30 18 was held so you could even show -- so that you could show W-2s

03:19:36 19 in uneditable formats; is that right?

03:19:40 20 A. Correct.

03:19:41 21 Q. And that meeting took place on January 3rd, right?

03:19:44 22 A. Yes.

03:19:45 23 Q. Also in Megan Weyler's office, correct?

03:19:48 24 A. Yes.

03:19:49 25 Q. All right. And that was 2-1/2 months after the October

03:19:52 1 meeting?

03:19:52 2 A. Yes.

03:19:52 3 Q. Okay.

03:19:53 4 MR. FOLEY: No further questions.

03:19:55 5 THE COURT: Cross?

03:19:55 6 CROSS EXAMINATION

03:19:55 7 BY MS. GREENSPAN:

03:20:02 8 Q. Good afternoon, Ms. Flavin.

03:20:03 9 A. Good afternoon.

03:20:05 10 Q. In your role as executive director, are you in charge of

03:20:09 11 the payroll department?

03:20:10 12 A. Yes, I am.

03:20:11 13 Q. So important requests come to you; is that correct?

03:20:16 14 A. Yes.

03:20:17 15 Q. You were asked some questions about what you did and

03:20:21 16 didn't do, and I want to just go through that in a little bit

03:20:25 17 more detail?

03:20:26 18 A. Okay.

03:20:27 19 Q. You were asked some questions about September 20th, 2024.

03:20:30 20 On that day, did you provide W-2s?

03:20:34 21 A. Yes, I did.

03:20:35 22 Q. Do you recall, off the top of your head, how many W-2s you

03:20:40 23 provided?

03:20:40 24 A. It was about 30 -- or 30 employees for four years.

03:20:44 25 Q. And let me direct you. Do you still have a copy of your

03:20:48 1 declaration in front of you or did you ever have a copy of the
03:20:52 2 declaration in front of you?
03:20:54 3 A. No, I did not. Just reading the screen.
03:20:56 4 MS. GREENSPAN: Your Honor, may I approach?
03:20:58 5 THE COURT: You may.
03:20:58 6 BY MS. GREENSPAN:
03:21:04 7 Q. Ms. Flavin, I've handed you what's now been marked as
03:21:08 8 joint Exhibit 99. Does that refresh your recollection as to
03:21:12 9 how many W-2s you provided on September 20th?
03:21:15 10 A. Yes.
03:21:17 11 Q. Did you hold back any pay information from what you
03:21:22 12 provided?
03:21:23 13 A. No, I did not.
03:21:24 14 Q. Now, going to the meeting you were asked about just now by
03:21:29 15 counsel, the first meeting which was October 16th, 2024?
03:21:34 16 A. Yes.
03:21:34 17 Q. He mentioned some kind of glitch with one of the W-2s.
03:21:39 18 Were you able to correct the glitch?
03:21:42 19 A. The glitch was actually with the salary history form,
03:21:45 20 which was in addition to showing the W-2s. We showed them the
03:21:49 21 salary history. So I found that the software vendor identified
03:21:53 22 that there is a problem with that form.
03:21:55 23 Q. Ultimately, though, did you show them everything they
03:21:58 24 asked for?
03:21:59 25 A. Yes.

03:21:59 1 Q. Did you hold back anything that they asked for?

03:22:02 2 A. No, I did not.

03:22:04 3 Q. Let me go also to the meeting on January 3rd, 2025. At

03:22:11 4 that time, did you provide access to showing plaintiff and

03:22:16 5 counsel how to generate W-2s?

03:22:18 6 A. Yes.

03:22:18 7 Q. Did you answer any questions they had?

03:22:20 8 A. Yes.

03:22:21 9 Q. Did you provide them any information they requested?

03:22:25 10 A. Yes.

03:22:25 11 Q. Was there anything you held back?

03:22:27 12 A. No.

03:22:31 13 MS. GREENSPAN: Thank you.

03:22:32 14 THE COURT: Redirect or recross the hostile.

03:22:32 15 EXAMINATION

03:22:43 16 BY MR. FOLEY:

03:22:43 17 Q. The meeting on January 3rd was because you had shown PDFs

03:22:51 18 in October -- in the October meeting in a format that could

03:22:55 19 have been edited; isn't that right?

03:22:57 20 A. Yes. They were shown in Google Chrome that has an Adobe

03:23:03 21 extension, so yes.

03:23:06 22 MR. FOLEY: No further questions.

03:23:09 23 THE COURT: Thank you very much. You can leave the

03:23:10 24 stand.

03:23:11 25 THE WITNESS: Thank you.

03:23:16 1 THE COURT: Next witness.

03:23:32 2 MR. FOLEY: Plaintiff calls Dr. Roger Kurtz.

03:23:41 3 MS. GREENSPAN: Your Honor, may I just -- that's not

03:23:44 4 what I was expecting. May we have one moment?

03:23:47 5 THE COURT: Why don't we have a quick break. We will

03:23:51 6 be in the courtroom at 3:30.

03:24:24 7 THE BAILIFF: All rise.

03:24:24 8 THE COURT: Okay. Be back at 3:30.

03:36:18 9 MS. GREENSPAN: We figured it out.

03:36:18 10 MR. FOLEY: Yes, Your Honor.

03:36:18 11 THE COURT: Professor Kurtz.

03:36:21 12 MR. FOLEY: Yes.

03:36:23 13 THE COURT: Professor, do you prefer Dr. or Professor?

03:36:26 14 THE WITNESS: Either one is fine.

03:37:21 15 THE COURT: Please swear the witness.

03:37:21 16 (JOHN ROGER KURTZ, sworn.)

03:37:21 17 THE BAILIFF: Please state your full name for the

03:37:21 18 record, spelling your last name.

03:37:30 19 THE WITNESS: John Roger Kurtz, K-U-R-T-Z.

03:37:34 20 THE COURT: Your witness.

03:37:36 21 BY MR. FOLEY:

03:37:36 22 Q. Good afternoon. Do you wish to be called Dr. Kurtz?

03:37:40 23 A. That will be fine.

03:37:41 24 Q. Okay. Good afternoon, Dr. Kurtz. How are you today?

03:37:44 25 A. I'm fine. Thanks.

03:37:46 1 Q. All right. I want to talk with you about the job of
03:37:51 2 tenured professor in the Department of English and Philosophy.
03:37:56 3 So you are the Department Head for the Department of English
03:38:00 4 and Philosophy at Drexel, correct?
03:38:03 5 A. Correct.
03:38:04 6 Q. And you have been doing that since the fall of 2017,
03:38:07 7 correct?
03:38:08 8 A. Yes.
03:38:08 9 Q. And as director, you are the person who runs the whole
03:38:16 10 program?
03:38:16 11 A. As Department Head.
03:38:18 12 Q. Correct. I'm sorry, as Department Head. I keep calling
03:38:18 13 it director, sorry.
03:38:22 14 As Department Head, you are the head of the professors of
03:38:26 15 English in the department?
03:38:27 16 A. Yes. Would you like me to say a little bit about the
03:38:32 17 duties of Department Head?
03:38:33 18 Q. Sure. And you are the head of Philosophy professors in
03:38:36 19 the department?
03:38:38 20 A. Correct.
03:38:38 21 Q. Tell us about your duties.
03:38:40 22 A. So Department Head is just a place in the context of the
03:38:43 23 whole university. You heard earlier about the provost who is
03:38:47 24 in charge of the whole academic area. There are multiple
03:38:51 25 colleges across the whole university. Drexel I believe has 13

03:38:53 1 different colleges. At the head of each is the dean, and then
03:38:57 2 within each college -- and I am in the College of Arts and
03:39:00 3 Sciences -- within each college there are departments. And in
03:39:05 4 our college there happen to be 13 different departments;
03:39:08 5 Department of History, Department of Politics, Criminal
03:39:11 6 Justice, and so forth. I'm the head of the Department of
03:39:15 7 English and Philosophy. English and Philosophy is one of the
03:39:19 8 larger departments.

03:39:20 9 All of those department heads, we're kind of, maybe you'd
03:39:23 10 call it a middle management role. We are in charge of
03:39:27 11 basically soup to nuts. The big things, helping establish a
03:39:32 12 vision and a direction for the department. I am in charge of
03:39:37 13 hiring. The most important thing probably is I am in charge of
03:39:41 14 scheduling and staffing all the classes that we teach to all
03:39:46 15 our students in English and Philosophy and, indeed, across the
03:39:50 16 University. So there's those things. I am in charge of the
03:39:53 17 budget. I am in charge of making sure that promotion and
03:39:56 18 personnel processes go properly.

03:39:59 19 Facilities: On any given day, there is all sorts of
03:40:04 20 things happening, and I like to say that it's anything between
03:40:08 21 this big picture, looking out, the determining a 5-year plan to
03:40:13 22 the photocopier is broken, somebody needs to take care of it.

03:40:17 23 Those are the things that a Department Head does in
03:40:20 24 supervising and overseeing a department like the Department of
03:40:23 25 English and Philosophy.

03:40:24 1 Q. So you're also a professor of English at Drexel; isn't
03:40:31 2 that right?

03:40:31 3 A. That's correct. I also hold a faculty rank Professor of
03:40:35 4 English.

03:40:35 5 Q. Okay. And as Professor of English, you get a base salary,
03:40:41 6 correct?

03:40:42 7 A. Yes. I was hired in 2017 to come and I was hired to be
03:40:47 8 professor and I was given a rank of tenured professor, and also
03:40:52 9 the role of Department Head at that point. I came for that
03:40:56 10 job, to be professor and Department Head.

03:41:00 11 Q. Okay. So you're a full professor?

03:41:02 12 A. Yes.

03:41:02 13 Q. Just as Dr. Piety is, correct?

03:41:05 14 A. That's correct.

03:41:05 15 Q. I want to show you an exhibit. It's one that you
03:41:10 16 stipulated to, Exhibit 90?

03:41:13 17 THE COURT: Any objection?

03:41:13 18 MS. GREENSPAN: No, Your Honor.

03:41:14 19 THE COURT: Admitted publish.

03:41:16 20 (Exhibit 90 admitted into evidence.)

03:41:16 21 BY MR. FOLEY:

03:41:22 22 Q. Is it up on the screen?

03:41:25 23 A. I don't see anything.

03:41:39 24 Q. All right. So I just want to start and show you on this
03:41:42 25 exhibit, this is Exhibit 90, and this is the Department of

03:41:49 1 English and Philosophy positions held in compensation for
03:41:52 2 tenured and tenure track faculty, 2019 to 2025, correct? You
03:41:58 3 see that?
03:41:58 4 A. Correct.
03:41:59 5 Q. I want to take you down to -- this is once again organized
03:42:04 6 alphabetically, but by first name for some reason. But here we
03:42:09 7 go. The lines 28, that's you, correct?
03:42:11 8 A. Yes.
03:42:11 9 Q. All right. And it says Professor, Department Head,
03:42:14 10 English and Philosophy. Do you see that?
03:42:16 11 A. Yes.
03:42:16 12 Q. It says starting 2019 it's [REDACTED], and -- is that right?
03:42:24 13 Did I read that right?
03:42:25 14 A. Correct.
03:42:26 15 Q. We take that up through 2025 and we see you're up to
03:42:31 16 [REDACTED] and change, correct?
03:42:35 17 A. Yes.
03:42:36 18 Q. All right. So let's look at the line right below that.
03:42:42 19 What is that that says Department Head, English and Philosophy?
03:42:46 20 A. So what you see on the first line, the line above that, is
03:42:50 21 my base salary, and that is my salary for my role as Professor
03:42:55 22 and Department Head. In addition, I get a stipend, and this is
03:42:59 23 the same stipend that any Department Head gets in the College
03:43:03 24 of English and Philosophy. All those 13 departments I
03:43:06 25 mentioned, Department Heads are compensated with an additional

03:43:10 1 stipend for their work.

03:43:12 2 Q. Right. And that's to do the work of Department Head,

03:43:15 3 right?

03:43:16 4 A. That is, yes. You get that by virtue of being a

03:43:19 5 Department Head. That is not my only compensation for being

03:43:23 6 Department Head.

03:43:24 7 Q. Okay. Why doesn't it say -- why doesn't it say -- why

03:43:30 8 would you get some additional compensation for being Department

03:43:33 9 Head when you're already getting compensation, you say, for

03:43:36 10 being Department Head?

03:43:39 11 A. I don't understand the question. Sorry.

03:43:40 12 Q. Why get a stipend if you're already being paid for being

03:43:46 13 Department Head as you claim?

03:43:47 14 A. Well, one of the reasons, possibly, is most faculty

03:43:51 15 appointments are 9-month appointments and administrative

03:43:55 16 appointments are 12-month appointments, so one of the reasons

03:43:58 17 they'll give stipends is to compensation you for the extra,

03:44:01 18 additional three months that you're working. But for the most

03:44:04 19 part, I think it's generally recognized that being Department

03:44:09 20 Head is a difficult and challenging job. As I mentioned, it

03:44:12 21 has a lot of responsibility. You have supervisory

03:44:14 22 responsibility, you have budgetary responsibility. So in

03:44:17 23 addition to whatever salary you're getting, you will also get a

03:44:20 24 stipend on top of that.

03:44:23 25 Q. Okay. Let's -- all right. Let's we'll come back to this

03:44:29 1 in a little bit, and stop the share, please. Thanks.

03:44:37 2 All right. Let's talk about what tenure, tenure track,

03:44:39 3 tenured professors do in the Department of English and

03:44:44 4 Philosophy. The comparisons, the people that we want to have

03:44:50 5 as comparators in this case, they're all tenured professors,

03:44:54 6 right?

03:44:55 7 A. The comparators that you mentioned, yes.

03:44:59 8 Q. Yes. So Jacques Catudal was a tenured professor, correct?

03:45:05 9 A. Yes.

03:45:05 10 Q. Richard Astro --

03:45:05 11 A. Yes.

03:45:07 12 Q. -- tenured professor?

03:45:08 13 A. Yes.

03:45:08 14 Q. Mark Greenberg, a tenured professor. Abioseh Porter,

03:45:14 15 tenured professor, yes?

03:45:16 16 A. Yes, yes. The only thing I would add there is that we use

03:45:20 17 the word "professor" sometimes generically to refer to anybody

03:45:25 18 who teaches at the University, but we also sometimes use this

03:45:31 19 term "professor" in a much more specific way to refer to the

03:45:35 20 specific ranks. You hear already the terms assistant

03:45:37 21 professor, associate professor, and then what's sometimes

03:45:40 22 called full professor but sometimes we will just say professor.

03:45:43 23 So I think that's the term, that's the way you're using that

03:45:46 24 term. When you say "professor," you're referring to category

03:45:49 25 of full professor, am I right?

03:45:51 1 Q. Well, I'm asking if these are tenured professors at
03:45:55 2 Drexel.

03:45:55 3 A. Yes. And not professor in the generic sense, but
03:45:58 4 specifically full professors, with two exceptions. We have
03:46:00 5 two, two of those people are actually at an even higher rank,
03:46:03 6 which is the rank of Distinguished University Professor.

03:46:07 7 Q. All right. And you get paid when you get promoted to
03:46:11 8 Distinguished University Professor, right?

03:46:13 9 A. I don't know what the salary bump is for that.

03:46:16 10 Q. Okay. So there may be no salary bump, right?

03:46:19 11 A. I think it's usually given as sort of an acknowledgment of
03:46:24 12 great work over a period of time. So what you'll see, for
03:46:28 13 instance, is that two people in my department on this list who
03:46:33 14 have that very top ranking of Distinguish University Professor,
03:46:38 15 those are the two gentlemen who also had been provosts of the
03:46:44 16 whole University for some time.

03:46:45 17 Q. All right. So we're going to talk about two more people
03:46:50 18 just to make sure they are tenured professors. Andrew Smith,
03:46:55 19 tenured professor, right?

03:46:56 20 A. Yes.

03:46:56 21 Q. And Scott Warnock, tenured professor?

03:46:57 22 A. Tenured professor, and in this case, full professor at
03:47:02 23 that highest rank.

03:47:03 24 Q. Okay. So you make that distinction between distinguished
03:47:07 25 professor, full professor. Jacques Catudal was never a full

03:47:11 1 professor, right?

03:47:11 2 A. Jacques Catudal was an associate professor when he

03:47:14 3 retired.

03:47:14 4 Q. So let's talk about what these tenured professors did.

03:47:21 5 Professor Piety is a tenured professor, right?

03:47:25 6 A. Correct.

03:47:25 7 Q. Is that the full professor?

03:47:28 8 A. Yes.

03:47:29 9 Q. Let's talk about what they do for the department. They're

03:47:30 10 required to teach course, right?

03:47:32 11 A. So all faculty, all professors have three main areas of

03:47:37 12 work: Teaching, scholarship, and service. So, yes, the

03:47:43 13 teaching that you just mentioned, that is definitely part of

03:47:46 14 the expectation for all professors.

03:47:47 15 Q. Right. So all of the tenured professors have, as you

03:47:50 16 said, the requirement of teaching the scholarship and service?

03:47:54 17 A. That's right.

03:47:54 18 Q. Every one of them, right?

03:47:56 19 A. The three legs of the stool.

03:47:58 20 Q. Okay, great. So those three legs of the stool, let's talk

03:48:02 21 about each one.

03:48:03 22 First, there's no fourth leg, right? Those are the

03:48:06 23 jobs --

03:48:07 24 A. Those are the three main areas of expectation for the

03:48:11 25 work, yes.

03:48:11 1 Q. And then if somebody does something in addition to those
03:48:15 2 three legs of the stool, they get paid for that, right?
03:48:18 3 A. Or it's built into their job, yes.
03:48:20 4 Q. Okay. But they'll get a stipend if they have some kind of
03:48:24 5 administrative job, right?
03:48:26 6 A. They might.
03:48:27 7 Q. Okay. All right. Actually, let's go up to 90 again,
03:48:35 8 Exhibit 90. Is there anybody on this chart who's got
03:48:41 9 administrative role that doesn't have a stipend?
03:48:45 10 A. That has an administrative role --
03:48:49 11 Q. Currently.
03:48:50 12 A. Currently, with no stipend.
03:48:53 13 Q. Correct.
03:48:57 14 THE COURT: Hold on a second. Someone with a phone
03:49:00 15 on, please turn your phone off.
03:49:07 16 MR. FOLEY: I will check mine, Your Honor, just in
03:49:09 17 case.
03:49:09 18 BY MR. FOLEY:
03:49:26 19 Q. Let's make it easier. No one among the people we've
03:49:29 20 mentioned as doing the administrative work right now doesn't
03:49:33 21 have a stipend, correct? So that's like a --
03:49:35 22 A. Well, that's not quite correct.
03:49:37 23 Q. Let's look through these. There's Richard Astro, right?
03:49:42 24 We go down to number 41, Richard Astro. He's not doing any
03:49:49 25 administrative work right now, correct?

03:49:51 1 A. He is not.

03:49:51 2 Q. He gets no stipend, correct?

03:49:53 3 A. Correct.

03:49:54 4 Q. Okay. Jacques Catudal, he is up at line 21, right? He

03:50:02 5 is, and as we carry over he retired, but during that time

03:50:08 6 period here he was associate professor emeritus it says, he's

03:50:14 7 not doing any administrative work, right?

03:50:17 8 A. During this time period, no.

03:50:18 9 Q. Correct. And he's not getting any stipend for doing any

03:50:22 10 administrative work?

03:50:24 11 A. Not during this time period, no.

03:50:25 12 Q. So during this time period -- well, let's go look at

03:50:27 13 Abioseh Porter.

03:50:29 14 A. Well, this is why I was hesitating --

03:50:31 15 Q. Wait. Let me just do this. Abioseh Porter, number one

03:50:37 16 alphabetically, underlined. So during this entire time,

03:50:41 17 Abioseh Porter, he is not doing any administrative work, is he?

03:50:46 18 A. Well, he is, actually. He is presently the director of

03:50:51 19 our Africana Studies program. I'm not sure --

03:50:54 20 Q. Where does it say that on the chart?

03:50:57 21 A. I am not sure whether he receives a stipend for that or

03:51:01 22 not. But that's why I was hesitating. I don't know.

03:51:04 23 Q. Okay. But it doesn't say that on the chart, correct?

03:51:06 24 A. Correct.

03:51:07 25 Q. So if somebody is trying to compare salary to Professor

03:51:12 1 Piety's, they can't tell what is being paid for him to be a
03:51:18 2 Director of Africana Studies versus what he's being paid to be
03:51:21 3 a professor, right?
03:51:22 4 A. Well, all of these figures are base salary figures, which
03:51:26 5 is a good way to compare.
03:51:29 6 Q. Okay. Good. So base salary for being a professor in the
03:51:31 7 department?
03:51:31 8 A. For being a professor or for whatever you were hired to
03:51:34 9 be.
03:51:34 10 Q. Right. So we go to Richard Astro. He is a professor in
03:51:38 11 the department. That is the only work he is doing in this time
03:51:43 12 period, right?
03:51:43 13 A. At this time, yes.
03:51:44 14 Q. All right. Three legs of the stool, right?
03:51:46 15 A. Correct.
03:51:47 16 Q. No fourth leg, correct?
03:51:49 17 A. He's -- at this time, he is a professor in the department,
03:51:52 18 yes.
03:51:53 19 Q. Okay. And let's just go down to Scott Warnock. Is that
03:52:01 20 line 42? Right, we see that. He is a professor, he gets paid
03:52:06 21 for that, and then we see lines below where he's associate
03:52:15 22 dean, and then we see below that that he's director of the
03:52:21 23 writing center, and we see administrative stipend for that,
03:52:25 24 right? Associate dean he is getting [REDACTED] in 2022, right?
03:52:29 25 A. Right.

03:52:30 1 Q. [REDACTED] in 2023. 2024 and 2025, right?

03:52:37 2 Okay. And that's on top of his base salary, correct?

03:52:41 3 A. That's correct.

03:52:42 4 Q. And then he was did the director of writing center at one

03:52:46 5 point in 2019, right? That's line 44, right?

03:52:49 6 A. Yes, you can see that reflected here. He was director of

03:52:53 7 the writing center, actually for many years, until it looks

03:52:56 8 like the end of -- or August of 2021, and then he took the role

03:53:00 9 of associate dean.

03:53:02 10 Q. All right. And then what happened to that stipend after?

03:53:06 11 What is that N/A?

03:53:08 12 A. Well, because he is no longer in the role of director of

03:53:11 13 the writing center, he will no longer receive that stipend.

03:53:14 14 Q. Right. Because he is not doing work, right?

03:53:16 15 A. Correct.

03:53:17 16 Q. Okay. Let's talk about the work that these professors do

03:53:20 17 in the department as professors. We talked about the three

03:53:25 18 legs of the stool, teaching, scholarship, service. Teaching,

03:53:31 19 they all teach the same the number of classes. There is a

03:53:34 20 requirement number of classes for all of them, isn't there?

03:53:37 21 A. Yeah, the standard if workload for tenured faculty members

03:53:43 22 in the -- or tenured line faculty members in English and

03:53:44 23 Philosophy is five courses per year, five 3-credit courses.

03:53:49 24 Five 3-credit-hour courses annually.

03:53:53 25 Q. So all the people we just talked about, I won't keep

03:53:57 1 listing them all, but all of those male professors being paid
03:54:01 2 more than Professor Piety, they are all under that same
03:54:05 3 requirement, correct?
03:54:06 4 A. That is the standard load. That is the standard work
03:54:08 5 load, yeah.
03:54:08 6 Q. And Professor Piety is under that same --
03:54:08 7 A. She is on the same.
03:54:13 8 Q. -- workload as well, right?
03:54:14 9 A. Yes.
03:54:14 10 Q. When they teach classes, they have their freedom, academic
03:54:19 11 freedom to design the class how they want to design it, right?
03:54:22 12 A. Well, yes. I'm hesitating a little bit because if you
03:54:28 13 teach a certain class, you must teach what the class is about.
03:54:32 14 There are certain source objectives that you have to teach in
03:54:37 15 that class. So that's -- within those constraints, yes, there
03:54:39 16 is a great deal of autonomy about what you can teach in that
03:54:43 17 class.
03:54:43 18 Q. Of course, You're able to then design what books you want
03:54:46 19 to assign, what lessons you want to give, right?
03:54:49 20 A. Yes. That's part of your job as a professor, is to design
03:54:52 21 the class, teach it, deliver it.
03:54:55 22 Q. So everyone has that freedom, right?
03:54:58 23 A. Yes.
03:54:58 24 Q. Okay. And let's talk about scholarship. All of the
03:55:02 25 tenured -- all of these tenured professors compared to Dr.

03:55:09 1 Piety and along with Dr. Piety, they have the same requirements
03:55:13 2 for doing scholarship, right?

03:55:14 3 A. Yeah. I would say we have minimal standards for
03:55:17 4 requirements, so if you're a tenured line professor in the
03:55:21 5 department or anywhere in the University, we expect a certain
03:55:24 6 level of research activity your part, yes.

03:55:27 7 Q. And if you -- scratch that.

03:55:30 8 So all of these professors have that same minimum
03:55:35 9 requirement for scholarship, right?

03:55:37 10 A. That's correct.

03:55:38 11 Q. Okay. During the time you worked as a tenured professor?

03:55:41 12 A. Yeah. Now, within that there are some variations of, I
03:55:44 13 think I mentioned this department includes both English and
03:55:48 14 Philosophy. We have slightly different requirements between
03:55:51 15 the English faculty and the Philosophy faculty to accommodate
03:55:55 16 for differences in the field, but generally it's pretty much
03:56:00 17 the same. And that's pretty much true all across the College
03:56:04 18 of Arts and Sciences, we have some fairly standard expectations
03:56:08 19 about what level of work you're supposed to do as a professor.

03:56:12 20 Q. All right. And those differences, we talked about this
03:56:12 21 before, those differences are to make it comparable, to make it
03:56:15 22 equal, right?

03:56:16 23 A. Yes, reflecting differences in the disciplines.

03:56:19 24 Q. Right. So they have the same workload at the end of the
03:56:21 25 day?

03:56:22 1 A. Yeah, the idea is there is a same minimal standard that
03:56:25 2 everyone has to meet.

03:56:26 3 Q. So basically, they're all required at the end of the day
03:56:31 4 to meet the same minimal standards, scholarship, same amount of
03:56:36 5 work, right?

03:56:37 6 A. Yes.

03:56:38 7 Q. And let's talk about service. They have some kind of
03:56:41 8 minimal requirement to do service, right?

03:56:43 9 A. Yeah. And just to break it out for you a little bit, we
03:56:47 10 would say the teaching part of your job should be 40 to
03:56:52 11 50 percent of your job, the research or scholarship part of
03:56:56 12 your job should be 40 to 50 percent, and the service part
03:56:59 13 should be 10 to 20 percent of your job. So that's -- those are
03:57:03 14 the general parameters. You can see the service part is a lot
03:57:05 15 smaller, and then teaching and research are kind of equal, and
03:57:08 16 those are the larger parts of what you're supposed to do.

03:57:11 17 Q. And those parameters, they aren't mandated, are they?

03:57:18 18 A. What do you mean?

03:57:19 19 Q. I mean some professor might do more scholarship than --
03:57:23 20 put more time into scholarship than into teaching, right?

03:57:26 21 A. Well, again, we have what I would call minimal
03:57:31 22 expectations in each area. As long as you're meeting those
03:57:34 23 minimal expectations, then maybe you could exceed those
03:57:39 24 expectation in those areas and that's fine too.

03:57:42 25 Q. All right. And somebody who exceeds them, do they get

03:57:44 1 higher base the salary for exceeding?

03:57:47 2 A. Well, that would be reflected then maybe in your

03:57:49 3 performance reviews and maybe you would get better -- it helps

03:57:54 4 toward promotion and merit increases and that sort of thing.

03:57:58 5 Q. Okay. But the bottom line is they're all paid the base

03:58:01 6 salary to meet those minimum requirements, right?

03:58:04 7 A. Yes. I mean, there's sort of the general workload

03:58:08 8 expectation across the whole University, which try and

03:58:11 9 standardize across the whole College of Arts and Sciences, so

03:58:13 10 that, you know, there is this equal understanding of workload.

03:58:18 11 I mean, the policy is called the workload policy, so we have a

03:58:22 12 sort of equal work load for everybody, men and women, in

03:58:28 13 English and Philosophy outside of those areas too.

03:58:29 14 Q. And that workload policy, so that extends beyond the

03:58:33 15 Department of English and Philosophy to the whole College of

03:58:35 16 Arts and Sciences, right?

03:58:37 17 A. Actually, the provost's office has a whole workload policy

03:58:38 18 for the whole University, yeah.

03:58:40 19 Q. But certainly there is only one workload policy applicable

03:58:46 20 to the professors in the -- the tenured professors in your

03:58:51 21 department?

03:58:51 22 A. In a general sense, yeah. The general policy, yes.

03:58:55 23 Q. Okay. And you mentioned there'd be some raises people

03:59:00 24 will get. Those raises, those are like about 2, 3 percent?

03:59:07 25 A. Are you talking about any possible the raise someone may

03:59:12 1 get?

03:59:12 2 Q. Merit raises, sure.

03:59:14 3 A. Okay. So generally, the way it works for being able to
03:59:17 4 get raises at a place like Drexel is you're hired at a certain
03:59:21 5 salary level and that's negotiated at that time. Then your
03:59:25 6 opportunities for raises, there are really two. One is when
03:59:29 7 you get promoted. So, again, you start as an assistant
03:59:35 8 professor, then you go to associate, then you go to full, and
03:59:39 9 there are fixed amounts that you get. You get 5 percent for
03:59:43 10 each promotion that you get.

03:59:45 11 And then also, at the same time that you're promoted the
03:59:47 12 first time, you apply for tenure, and if you get tenure, that's
03:59:50 13 another 7 percent raise. That's University-wide, that's
03:59:53 14 everybody, that's standard, so you can kind of count on those,
03:59:56 15 and you know that that's the rhythm, and you can expect those
03:59:59 16 raises as you go through your -- the life cycle of your career
04:00:04 17 as a professor.

04:00:05 18 The other thing that you can look forward to in terms of
04:00:08 19 raises is any possible, usually annual, merit or cost-of-living
04:00:13 20 increases that the University will give. So in the seven years
04:00:17 21 that I have been at Drexel, actually eight now, seven and a
04:00:23 22 half years, we've had three years where we've had zero percent
04:00:28 23 merit increases, a couple of years where there were 2 percent,
04:00:32 24 one year there was a 5 percent increase. So it varies
04:00:38 25 somewhere along those lines.

04:00:39 1 So those are the sorts of things you can expect. And
04:00:42 2 again, these are available to everybody across the board and
04:00:45 3 they try and do it University-wide so it's fairly standard.
04:00:49 4 Q. So if two professors were doing the same work but they're
04:00:53 5 paid differently and they each get promoted, then the professor
04:00:57 6 who's making more money is going to get more money as part of
04:01:01 7 that promotion raise, right?
04:01:03 8 A. So your raises -- I mean, whenever salary you have at the
04:01:08 9 moment is based on these two things, on whatever your starting
04:01:11 10 salary is, and then any of these raises you have going along.
04:01:16 11 And yes, I think what you're getting at is that we do the
04:01:19 12 these -- we, Drexel, does these raises in terms of percentages,
04:01:23 13 not just absolute dollar amounts. So, yes, if you're making
04:01:27 14 more and you get a 5 percent increase, it will be slightly
04:01:31 15 higher than if you were making less.
04:01:33 16 Q. So besides being paid less it's just going to get a little
04:01:37 17 more raise even for the same work?
04:01:38 18 A. Right. It's the same percent raise, but, yes, lower
04:01:41 19 absolute number.
04:01:41 20 Q. Dollars and cents --
04:01:42 21 A. Correct, yes. And that's -- yeah.
04:01:43 22 Q. All right. All right. And these three legs of the stool,
04:01:50 23 everybody in the department gets reviewed along those three
04:01:55 24 legs of the stool, right?
04:01:57 25 A. So one of the big parts of my job as a department head, as

04:02:01 1 a supervisor, is to do annual reviews for everybody. I have
04:02:06 2 actually a very large department. I have about 50 people in
04:02:10 3 the department that I have to review annually. Now, not all of
04:02:14 4 them are tenure or tenure tracked folks so --
04:02:18 5 Q. We're talking about the tenure?
04:02:20 6 A. We are talking about the tenure and tenure track folks,
04:02:23 7 yes. That's, right now, like 16 of them, plus me.
04:02:27 8 So every year I do an annual review of everybody and there
04:02:31 9 is a standard form that we use to do this review. It has us
04:02:35 10 review these three areas: Review your work in teaching; review
04:02:39 11 your work in scholarship; review your work in service.
04:02:43 12 Q. And you do that for the professors who teach English,
04:02:47 13 right?
04:02:48 14 A. I do that for everybody in the department, whether you are
04:02:51 15 the English program or the Philosophy program. Because we're
04:02:55 16 together in one department and I'm supervising both of those,
04:02:59 17 we do them all.
04:03:00 18 Q. And the forms are the same for professors who teach
04:03:04 19 English as who teach Philosophy, right?
04:03:07 20 A. Actually they are the same across the whole college and
04:03:10 21 most of the University, actually.
04:03:12 22 Q. All right. Let's talk about anything else we need to talk
04:03:19 23 about. There's some professors who teach courses in English
04:03:23 24 and in Philosophy, right?
04:03:24 25 A. That's very rare. It hasn't happened in recent years.

04:03:31 1 Q. Jennifer Yusin does, right?

04:03:34 2 A. She hasn't for a while.

04:03:35 3 Q. And Stacey Ake does, right?

04:03:37 4 A. Again, she hasn't for a while. I don't know if Stacey has

04:03:41 5 done any, Dr. Ake.

04:03:42 6 Q. But it happens, right?

04:03:44 7 A. Well, for example, sometimes we have courses that might be

04:03:50 8 cross-listed between programs or departments, so if you have a

04:03:54 9 course that's got a title like the Philosophy of Literature,

04:03:59 10 that makes a lot of sense that it could be taught by a

04:04:03 11 philosopher or it could be taught by an English professor. So

04:04:06 12 courses like that, we will put in somebody who -- I mean, it

04:04:10 13 might be someone from English or someone from Philosophy

04:04:13 14 teaching that.

04:04:14 15 So, yeah, it's quite possibly -- I mean it's possible that

04:04:17 16 sometimes, and say you are a professor in the English program,

04:04:21 17 you might teach some courses outside of English from time to

04:04:25 18 time, even though your home is in English. And the same way if

04:04:28 19 you're in the Philosophy program, you might teach a few courses

04:04:31 20 outside of the Philosophy program from time to time, even

04:04:34 21 though your home is in Philosophy.

04:04:36 22 Q. Okay. But all the same department?

04:04:38 23 A. One department, yes.

04:04:40 24 Q. All right. So to wrap up, the effort required of this

04:04:49 25 professors, the minimal effort course load, scholarship, and

04:04:54 1 services is the same for all of them, isn't it?

04:04:57 2 A. So, I mean, it's very -- yes, it's comparable overall. I

04:05:04 3 mean, we're definitely trying to make sure that one professor

04:05:09 4 in one area, one program, is not having to like bear a much

04:05:15 5 heavier workload than someone in another department or program.

04:05:19 6 So that's true University-wide. We have these common workload

04:05:24 7 policies as a result. So, yeah, there is an attempt to make

04:05:27 8 sure that the working conditions are similar for everybody.

04:05:30 9 Q. Okay. So in fact, part of your job as head of the

04:05:34 10 department is to work toward making the working conditions

04:05:37 11 similar for everybody, right?

04:05:39 12 A. I would say to make them equitable, yes.

04:05:45 13 Q. Okay. And equitable, so do you mean equal or similar?

04:05:48 14 A. I mean, well, so that they're fair.

04:05:55 15 Q. Okay. So that they're all required to do the same amount

04:06:00 16 of work?

04:06:02 17 A. Right. And it all has to fit within the broader policies

04:06:06 18 of the whole University. So the University has all these

04:06:09 19 policies that try to make sure that we're not, you know,

04:06:11 20 exploiting one category of worker whether it's one department

04:06:16 21 or another department, or one discipline or another, so, yeah.

04:06:21 22 Q. All right. So wrapping up, the department, all professors

04:06:27 23 have, quote/unquote, similar working conditions, right?

04:06:31 24 A. I would say in the same way that in any professor that is

04:06:37 25 true. So you can think about your own jobs, you know, the same

04:06:40 1 category of employee is going to have similar working
04:06:46 2 conditions, right.

04:06:47 3 Q. Okay. All right. Let's talk about is how the professors
04:06:58 4 in the department are under the same set of bylaws, right?

04:07:02 5 A. Yeah. We are in the Department of English and Philosophy.
04:07:04 6 We have a set of bylaws that refer to how we organize ourselves
04:07:09 7 in the department, and a lot of it has to do with how we set up
04:07:13 8 the committees. That's the service part of your job. A lot of
04:07:15 9 service serve on committees. So, yes, we have bylaws about the
04:07:18 10 department and what and their commits for different things, and
04:07:22 11 we assign those committee members through those bylaws.

04:07:26 12 Q. All right. Let's talk about the skills of the professors.
04:07:29 13 The tenured professors, they're required to have Ph.D.s, right?

04:07:35 14 A. Yes.

04:07:35 15 Q. Okay. And they have some -- they are required to have
04:07:40 16 teaching certificates though, right?

04:07:41 17 A. So if you want to be a professor in English or Philosophy
04:07:46 18 at a place like Drexel, yes, you will definitely need a Ph.D.
04:07:52 19 It helps if you have some teaching experience. We like that
04:07:55 20 when we hire you as well. You don't have to have special --
04:07:59 21 actually, you don't have to have certification, that's correct,
04:08:00 22 in teaching.

04:08:01 23 Q. Okay. And even to teach -- to teach courses in the
04:08:06 24 department, people aren't even required to be tenured, correct?

04:08:10 25 A. In fact, most people who teach courses in my department

04:08:15 1 are not tenured. So I mentioned I have a very large
04:08:19 2 department. Actually, it's one of the largest in the whole
04:08:23 3 University, partly because we teach a lot of composition
04:08:27 4 courses. I would say, I mentioned that I supervise 50
04:08:32 5 full-time faculty. In addition to that, any given quarter I
04:08:37 6 have 50 to 70 part-time or adjunct faculty that I'm supervising
04:08:43 7 as well.

04:08:44 8 So there's -- and those folks don't have tenure. They are
04:08:48 9 not able to have tenure. The part-timers certainly are not,
04:08:53 10 and even among the full-time faculty we have this category
04:08:54 11 called teaching faculty, and they are not given tenure either,
04:08:58 12 so.

04:08:59 13 Q. So courses in the department can be taught, you know, one
04:09:03 14 of any particular course can be taught by a full professor,
04:09:08 15 associate professor, distinguish professor, assistant
04:09:13 16 professor, right?

04:09:13 17 A. Yeah. Look, when I'm scheduling the classes, staffing the
04:09:17 18 classes, which is one of the most important parts of my job, I
04:09:20 19 will say we will have all these list of classes that we need to
04:09:24 20 offer next term. What I'm thinking about in terms of who's
04:09:28 21 teaching them is I'm thinking who's qualified to teach this.
04:09:32 22 And just because you have a Ph.D., doesn't necessarily mean
04:09:37 23 you're qualified to teach that.

04:09:39 24 So, again, we have the Philosophy side, we have the
04:09:44 25 English side. There is a wide range of that. Even within the

04:09:48 1 English side we have a whole bunch of different kinds of
04:09:50 2 courses. One of the things we do really well is we have a lot
04:09:51 3 of creative writing classes, to teach how to be a poet, how to
04:09:57 4 be a novelist and so forth. That's one kind of skill that you
04:10:01 5 have, and that's different from teaching, you know, Chaucer or
04:10:04 6 Shakespeare. I'm looking for what your skills are rather than
04:10:09 7 specifically what your degree is when I schedule those class.
04:10:14 8 Q. Right. And so someone who teaches Shakespeare or Chaucer
04:10:20 9 as you mentioned doesn't get paid more for teaching Shakespeare
04:10:20 10 or Chaucer than if they teach Hemingway or something, right?
04:10:30 11 A. You're not paid per class in the send that -- I mean,
04:10:32 12 unless you're an adjunct, you are being paid per class. The
04:10:36 13 salary that you're paid depends on two things. It depends on
04:10:39 14 the amount you were -- the contract you signed when you were
04:10:42 15 hired and what your starting salary was, and then any of those
04:10:45 16 salary increases that you got along the way, that I mentioned.
04:10:49 17 Q. All right. And let's talk about the -- let's talk about
04:10:57 18 the responsibility of each of these tenured professors in the
04:11:02 19 departments, which are Richard Astro, Jacques Catudal, Mark
04:11:06 20 Greenberg, Roger Kurtz, Abioseh Porter, Scott Warnock, Andrew
04:11:12 21 Smith, in their role as a professor in the department and only
04:11:16 22 as a professor in the department, they all have the same degree
04:11:19 23 of responsibility, right?
04:11:21 24 A. In a very the general sense, yes.
04:11:25 25 Q. Right. Like a full professor doesn't get to get more

04:11:31 1 control over more students because they're full professor?

04:11:36 2 A. We try not to control students, in any case.

04:11:39 3 Q. Okay. So basically, the responsibility level when they're

04:11:47 4 being professors in the department, not administrators,

04:11:51 5 professors, it's the same, right?

04:11:52 6 A. Yeah. I mean, in the most general sense, yes. To be a

04:11:55 7 professor, when you're a professor, you're a professor. Again,

04:11:58 8 it's sort of like other professions. You're hired to be a

04:12:01 9 doctor, you're a doctor. You do the doctor things. You do the

04:12:05 10 professor things.

04:12:05 11 Q. Okay. All right. So I want to talk about this idea of

04:12:18 12 administrative pay for these professors. So, remember I took

04:12:21 13 your deposition last December. Do you remember that?

04:12:24 14 A. I do.

04:12:25 15 Q. Okay. And let's talk at Jacques Catudal. I asked you

04:12:28 16 about him, do you remember that?

04:12:29 17 A. I do.

04:12:30 18 Q. And let's look at Jacques Catudal's salary. He is up on

04:12:39 19 line 21, right? He is an associate professor emeritus? Now,

04:12:45 20 emeritus means now he's retired, right?

04:12:48 21 So in the years before he was retired, look at 2019 and

04:12:52 22 2020, he is -- he is not emeritus then, right?

04:12:57 23 A. Correct.

04:12:58 24 Q. He is an associate professor?

04:13:00 25 A. He's teaching in the department, yes.

04:13:03 1 Q. Okay. So at that time he's teaching in the department,
04:13:07 2 his salary -- let's go to 2021, the same as 2020. That's
04:13:15 3 \$[REDACTED], right?
04:13:20 4 A. Correct.
04:13:21 5 Q. Okay. And during that time he is, as we discussed,
04:13:24 6 working as a professor in the department?
04:13:27 7 A. Yes.
04:13:28 8 Q. And only as a professor in the department?
04:13:30 9 A. Right. Yes.
04:13:31 10 Q. Okay. And now let's look a Professor Piety down in
04:13:37 11 line 30. She's a professor. What's the difference between
04:13:40 12 associate professor and a professor?
04:13:42 13 A. Within the tenure line faculty ranks, the faculty ranks,
04:13:51 14 as I've explained, the entry level position is you start out as
04:13:53 15 an assistant professor. After six years you can apply for
04:13:57 16 promotion, if you've done well, get promoted to associate
04:13:59 17 professor. Again, if you've done well and you want to apply
04:14:03 18 for promotion to full professor, then you can do that. So
04:14:07 19 that's the difference.
04:14:08 20 Q. So she's achieved higher rank?
04:14:11 21 A. She's achieved the highest rank.
04:14:11 22 Q. Right. He was never promoted to full professor?
04:14:14 23 A. That's correct.
04:14:14 24 Q. So let's look at her salary here. 2021, we've got her at
04:14:22 25 \$[REDACTED], right?

04:14:24 1 A. Yes.

04:14:26 2 Q. And his is [REDACTED]?

04:14:29 3 A. Yes.

04:14:30 4 Q. During that time they're doing the same work, right?

04:14:33 5 A. And you can look also, for instance, at Eva Thury --

04:14:37 6 Q. I'm just asking about that.

04:14:39 7 A. Yeah. So, yes, they are different ranks, so they're doing

04:14:41 8 the same sort of professorial work at that point, yes.

04:14:48 9 Q. Is Catudal at that point doing anything other than the

04:14:51 10 three legs of the stool --

04:14:51 11 A. At that point --

04:14:52 12 Q. -- to be paid that much more than Piety?

04:14:55 13 A. No, he's doing the same -- he has the same role as a

04:14:58 14 faculty member that other faculty members do, as he is doing

04:15:02 15 his teaching, he's doing his scholarship, and he's doing his

04:15:04 16 service.

04:15:04 17 Q. And that you would you say that for all these people,

04:15:08 18 except for the administrative stipend, same work?

04:15:11 19 A. Yes and no.

04:15:14 20 Q. Okay. Well, let's talk about Catudal. So remember I

04:15:20 21 asked you, Catudal, you said that you couldn't explain why his

04:15:27 22 salary was so much higher than Piety, could you?

04:15:31 23 A. That's not what I said.

04:15:32 24 Q. You said you didn't know.

04:15:34 25 A. Well, I said I didn't know what his salary was originally,

04:15:40 1 like I didn't know what his starting salary is. I still don't
04:15:44 2 know actually what his starting salary is. So like I said,
04:15:46 3 you're -- whatever salary you have is based on whatever you
04:15:48 4 started out and any raises you get along.

04:15:52 5 So prior to when I came in 2017, I don't know. That is
04:15:55 6 what I was telling you. I don't know what those bumps were at
04:15:59 7 that point or what his starting salary was.

04:16:01 8 Q. Now, when you had the deposition in December --

04:16:01 9 A. Yes.

04:16:03 10 Q. -- you were serving then, as you are here today, as
04:16:07 11 Drexel's corporate representative, right?

04:16:10 12 A. Yes.

04:16:10 13 Q. And that meant that you weren't just speaking on what you
04:16:13 14 knew personally, right?

04:16:15 15 A. Well, I was speaking to this time period that we were
04:16:18 16 looking at that I was asked to speak to.

04:16:20 17 Q. Right. But you were speaking and you were supposed to
04:16:24 18 have all of the knowledge reasonably available, not just you
04:16:29 19 but to Drexel, right?

04:16:30 20 A. Within the scope of the time period --

04:16:30 21 Q. Okay.

04:16:33 22 A. -- that we are talking about, yes.

04:16:34 23 Q. You were asked to explain why in this time period Catudal
04:16:39 24 gets paid more than Piety, right?

04:16:41 25 A. And I did.

04:16:42 1 Q. Well, you couldn't explain. You said you didn't know.

04:16:46 2 A. Well, I think I told you that it is a practice at a lot of
04:16:50 3 universities that when individuals get these upper-level
04:16:55 4 administrative roles such as provost, vice provost, dean,
04:17:01 5 you'll get a salary increase at that point. And what happens
04:17:05 6 with that is the result of an individual negotiation that I am
04:17:09 7 not aware of, and so when you step down from that role, the
04:17:13 8 step-down salary may continue, it may be slightly reduced. It
04:17:17 9 varies.

04:17:18 10 And that is exactly the practice at all universities
04:17:21 11 across the United States, not just Drexel.

04:17:23 12 Q. You just said that but when I asked you about that, and
04:17:26 13 you're Drexel's corporate representative, you said you didn't
04:17:32 14 know if Drexel had that as a policy; isn't that right?

04:17:35 15 A. I said I understood that it was a practice but I did not
04:17:39 16 know if there was a specific policy.

04:17:41 17 Q. But you said you did not know if that was the reason why.

04:17:45 18 A. I did not know for sure if that was the reason why, but I
04:17:50 19 knew it was a practice, so.

04:17:51 20 Q. Well, that doesn't really work, does it? You said you
04:17:56 21 couldn't explain it but you knew it was a practice.

04:17:59 22 A. Well, let me put it this way. So when I first came to
04:18:03 23 Drexel in the fall of 2017 to be the department head in this
04:18:07 24 department -- I was hired as a professor and Department Head --
04:18:11 25 one of the first things I noticed was, wow, let me take a look

04:18:15 1 at who our people are and what their salaries are, and as you
04:18:20 2 can see, all the salaries are different. That's normal.
04:18:22 3 That's true at any university.
04:18:23 4 And so what I'm curious about is what the reasons for
04:18:27 5 those differences, and I wanted to understand some of those.
04:18:31 6 And I quickly came to realize, well, a couple of these folks --
04:18:35 7 actually, this was little surprising to me -- I have two former
04:18:38 8 provosts and a former vice provost who are now faculty in my
04:18:45 9 department, which that had happened once before with a provost,
04:18:48 10 but that explained to me when I saw those salaries exactly,
04:18:52 11 aha, that made sense. That's why they have these hire
04:18:55 12 salaries. Because I knew that was the practice elsewhere and
04:18:58 13 apparently also here at Drexel.
04:19:00 14 Q. Okay. But you hadn't checked that out when we talked last
04:19:04 15 December, had you?
04:19:05 16 A. Well, I am telling you the same thing now, that I assumed
04:19:07 17 that that's -- that I know that it is a practice.
04:19:09 18 Q. Right.
04:19:09 19 A. Yes.
04:19:10 20 Q. But you said you were guessing last December.
04:19:14 21 A. I said I didn't know specifically what their individual
04:19:20 22 arrangements were, and I still don't.
04:19:22 23 Q. You couldn't explain what portion of Catudal's salary was
04:19:28 24 the result of his having held a position in the provost office
04:19:33 25 at some point, right?

04:19:34 1 A. I didn't know the starting salary, I didn't know what any
04:19:38 2 of that information prior to the scope of the period we were
04:19:42 3 looking at, which is now prior to 2019 and prior to when I
04:19:48 4 came.

04:19:49 5 Q. You were supposed to explain the reason for these pay
04:19:54 6 discrepancies, correct?

04:19:55 7 A. Well, that is a very reasonable explanation.

04:19:58 8 Q. I don't know.

04:20:00 9 A. The fact that it is a practice and it's what universities
04:20:09 10 normally do.

04:20:10 11 Q. All right. At that time you testified there was -- you
04:20:13 12 knew of no actual policy at Drexel about that?

04:20:17 13 A. That's correct. I still don't.

04:20:19 14 Q. Right. You still don't know.

04:20:22 15 A. Right.

04:20:23 16 Q. So you don't know if Drexel lets people keep -- let's go
04:20:27 17 to this -- Catudal at this point, say 2019, how long had it
04:20:36 18 been since he worked at the provost's office?

04:20:39 19 A. Well, Catudal, as you can see -- what line is he on?

04:20:45 20 Yeah. There are a couple of things going on with Dr. Catudal.
04:20:49 21 He started working at Drexel in 1981, so he has a longevity
04:20:54 22 factor going for him. And then at some point he worked as the
04:20:57 23 vice provost in the vice provost's office. I don't know off
04:21:02 24 the top of my head how long that was or what the years were
04:21:05 25 exactly, but it was prior to when I came here.

04:21:08 1 Q. About 15 years, probably?

04:21:10 2 A. 15 years of being in that office, you're saying?

04:21:13 3 Q. No, 15 years since he had been working as provost?

04:21:17 4 A. I don't know. Possibly.

04:21:19 5 Q. But certainly the entire time you have been at Drexel, he

04:21:23 6 did not do any work as a provost?

04:21:26 7 A. I have been at Drexel for seven and a half years and he

04:21:29 8 has not been a vice provost during that time, correct.

04:21:33 9 Q. But he's getting paid this big salary, right?

04:21:36 10 A. Correct.

04:21:37 11 Q. All right. Let's actually display this list.

04:21:47 12 Can you name the people on this list who were in the

04:21:50 13 provost's office?

04:21:51 14 A. Yes. Dr. Richard Astro served as a provost. He was

04:21:55 15 actually hired at Drexel to be the provost. I think he was a

04:22:00 16 provost elsewhere before that, and even before that he been

04:22:05 17 dean at Northeastern University, so he came in with quite a few

04:22:08 18 the impressive credentials.

04:22:11 19 Dr. Mark Greenberg was a provost as well, and then Jacques

04:22:17 20 Catudal was a vice provost.

04:22:19 21 So that's all that I know of that worked in the provost or

04:22:24 22 vice provost positions.

04:22:25 23 Q. Okay. Those are all men, right?

04:22:27 24 A. Correct.

04:22:28 25 Q. No women from this department have ever gotten that bump

04:22:34 1 up to provost?

04:22:36 2 A. Not from this department, that I -- not that I know of.

04:22:37 3 Again, I've been here 7 and a half years.

04:22:41 4 Q. Right. But you don't know any of these people that has

04:22:46 5 been provost in the provost office currently?

04:22:48 6 A. I don't know.

04:22:49 7 Q. None of these people to your knowledge has been raised up

04:22:54 8 to the provost office, right?

04:22:55 9 A. Other than Astro, who was hired to be a provost,

04:22:59 10 Greenberg, who was a provost, I am not sure of the conditions

04:23:03 11 of his hiring, and Jacques Catudal, those three from my

04:23:08 12 department, yeah.

04:23:08 13 Q. Right. And when I talked to you in December, you were --

04:23:11 14 December 23rd when you had -- you were supposed to have all the

04:23:15 15 knowledge available not just to you but to Drexel, you said you

04:23:19 16 didn't know what Astro's starting salary was?

04:23:23 17 A. I did not -- I still don't know what his starting salary

04:23:27 18 was.

04:23:27 19 Q. Okay. I want to correct that. It was February of 2024

04:23:30 20 when we talked.

04:23:31 21 So you don't know for sure if his pay is based on that,

04:23:35 22 right?

04:23:35 23 A. I don't know what his starting salary was when he started

04:23:40 24 here.

04:23:40 25 Q. Now, let's look up that Richard Astro. He's on line 41.

04:23:48 1 And let's just take it -- he still works there -- let's take
04:23:52 2 it up to 2025. All these single years here on page -- on
04:23:58 3 line 41, he's working as a professor in the department, right?
04:24:03 4 A. Distinguished University Professor.
04:24:05 5 Q. Yeah, and same -- same work as --
04:24:08 6 A. Similar -- similar duties.
04:24:09 7 Q. -- anyone else in the department, any other tenured
04:24:13 8 professor, and he is getting paid \$197,833 for that line of
04:24:20 9 work, right?
04:24:20 10 A. Right. And as I explained, I think there are
04:24:22 11 understandable reasons for that.
04:24:24 12 Q. But you don't know the reasons?
04:24:26 13 A. Well, I'm pretty sure I do know what those reasons are.
04:24:30 14 One, he was hired as a provost, so he worked as a provost for
04:24:33 15 quite a few years. I don't know exactly what the terms were
04:24:37 16 for him, and also he's been here since 1996, so he's been here
04:24:41 17 a little longer than Dr. Piety.
04:24:44 18 Q. Okay. And we see Dr. Piety has been here since 1998, line
04:24:49 19 30. During that time, she's getting paid up to [REDACTED], so he's
04:24:54 20 getting paid more than \$[REDACTED] for the same work, right?
04:24:58 21 A. To correct that, I think Dr. Piety started in 1998, not a
04:25:03 22 tenure track line. That was a visiting assistant professor
04:25:09 23 role. She didn't start in the tenure track until 2001, so that
04:25:14 24 be would a better starting date to think of for her.
04:25:17 25 Q. Okay. But at the end of the day, you still can't now

04:25:20 1 explain dollars and cents how Astro's pay got to be so high?

04:25:26 2 A. Well, like I said, when I first came and I looked at this

04:25:30 3 list of faculty and their salaries, yeah, it was very clear to

04:25:36 4 me here is somebody who was -- actually, I was little

04:25:39 5 intimidated by having a provost in my department. That's a

04:25:42 6 little bit scary because you're supervising this person who is

04:25:45 7 used to supervising this whole academic enterprise, but a great

04:25:50 8 guy. As it turns out it was fine, not a problem.

04:25:53 9 But in any case, it was very clear to me, oh, yes, that

04:25:56 10 salary is due to the fact that he had been a provost, and he's

04:25:59 11 been here for quite a while. And again, like I said, he was

04:26:02 12 hired in as a provost. At one point he was tasked with setting

04:26:09 13 up a campus in Florida somewhere. He had been -- when Drexel

04:26:16 14 was talking about setting up programs in Eastern Europe, he was

04:26:20 15 involved in that. So he was involved in some of this very

04:26:23 16 high-level work.

04:26:25 17 Q. So you said when you came to the department you noticed

04:26:36 18 these salary differences?

04:26:37 19 A. Yes, very much.

04:26:38 20 Q. And you said you looked into trying to find out why?

04:26:42 21 A. Well, I wanted to find -- yes, I wanted to sort of

04:26:46 22 understand, because one of the things you worry about when you

04:26:49 23 are Department Head and thinking about salaries and fairness

04:26:53 24 and does it make sense, you want to make sure there is not

04:26:58 25 compression or inversion or some inequities like this going on.

04:27:03 1 So, yes, that was one of the first things I was interested
04:27:06 2 in looking at, and I have to say, you know, we all wish we made
04:27:10 3 more money. I sure do, and I wish that for my department
04:27:14 4 certainly, but the salaries all made good sense.

04:27:19 5 Q. So you said it made good sense but you didn't find any
04:27:26 6 written policy at Drexel that said if you work in the
04:27:31 7 administrative job you get paid more for that without a
04:27:37 8 stipend, right?

04:27:38 9 A. As I said, the salaries are a result of two things. They
04:27:40 10 are a result of whatever you were hired at, that figure, and
04:27:42 11 then any increases you get along the way. There's no policy
04:27:46 12 about assistant professors make this, associate professors make
04:27:53 13 that, professors make that. There's nothing like that. That's
04:27:56 14 not how it works.

04:27:57 15 Q. Right. So it works just, basically, people get paid
04:28:02 16 amounts for whatever they want. I'm sorry. People get paid
04:28:07 17 amounts that are -- there is no real basis for it, right?

04:28:13 18 A. Actually there is a very real basis for it. I mean,
04:28:16 19 people don't just get paid whatever they want. Would that were
04:28:21 20 true. So your salary is based on when we hire you in the first
04:28:26 21 place, we figure out what the correct salary is for you and
04:28:29 22 there is actually a very -- Drexel has a very clear, consistent
04:28:35 23 and comprehensive process for figuring that out. There is a
04:28:39 24 whole office of compensation in the HR office, a compensation
04:28:43 25 team that helps figure out what is an appropriate salary for

04:28:43 1 this.

04:28:46 2 And so before we even -- before we even advertise a job we

04:28:52 3 go to the compensation team and they say based on our data,

04:28:58 4 looking at, you know, internal factors in Drexel and external

04:29:03 5 factors looking at the market, here is what we think the

04:29:07 6 correct salary range should be for this kind of job that you're

04:29:11 7 hiring this person to do. So it's not at all arbitrary. It's

04:29:15 8 very clear.

04:29:16 9 Q. Okay. Very clear but it's not written down, right?

04:29:19 10 A. What's not written down?

04:29:22 11 Q. This so-called policy.

04:29:27 12 A. What salary are you talking about?

04:29:31 13 Q. Guiding this compensation team.

04:29:33 14 A. I mean, look, I've hired multiple people and that's how we

04:29:37 15 do it every time. I mean, I couldn't hire anybody without

04:29:40 16 going through this process all along.

04:29:44 17 Q. My point is there are no documents that govern this

04:29:48 18 process of setting salaries, are there?

04:29:52 19 A. I don't know. There probably are.

04:29:58 20 Q. But you don't know if there are?

04:30:00 21 A. Well, I just know that when I start that process, that's

04:30:03 22 what I have to do. I would love to hire more faculty members

04:30:07 23 in my department. We have a real need for that right now. I'm

04:30:10 24 desperately needing someone to teach Shakespeare, for instance.

04:30:15 25 But before I am allowed to hire anybody -- I don't have the

04:30:19 1 authority myself to hire anybody. I have to get approval from
04:30:22 2 the dean. It has to be also approved by the provost's office.
04:30:25 3 If the compensation team comes in it figures out what the
04:30:29 4 correct compensation is. Even before I am approved to even
04:30:32 5 advertise for this job we have to -- I have to get all these
04:30:34 6 approvals. So, yes, that's very clear. That's how we run.
04:30:38 7 Q. You're Drexel's corporate representative here today,
04:30:41 8 right?
04:30:42 9 A. I am.
04:30:42 10 Q. You are aware that not a single document was ever provided
04:30:46 11 by Drexel and there is no exhibit in this case about how the
04:30:52 12 compensation team is supposed to assess salaries, is there?
04:30:56 13 A. Well, I'm telling you now that's how we do it.
04:30:59 14 Q. That's how you do it. There is no -- no written guidance?
04:31:01 15 A. Well, I don't have that front of my fingertips.
04:31:06 16 Q. You've never seen it?
04:31:07 17 A. Well, because I know that's how it works, right.
04:31:10 18 Q. Not from document.
04:31:11 19 A. Well, goodness, I can't say that for sure because there
04:31:17 20 might be documents there or --
04:31:18 21 Q. But the point is --
04:31:20 22 A. I've had -- I've had direction -- I mean, look, I am the
04:31:23 23 department head. I am not -- as the department head I know how
04:31:26 24 this works for me in my role in hiring, and so I have to follow
04:31:30 25 the directions that come to me from the dean and the provost.

04:31:35 1 Q. Right. But so this so-called compensation team, who's on
04:31:39 2 it?
04:31:39 3 A. So the compensation team is housed in the human resources
04:31:46 4 department.
04:31:46 5 Q. Right --
04:31:47 6 A. Yeah, and I don't know the individuals. I don't have
04:31:50 7 direct connection with them.
04:31:51 8 Q. No documents have been provided showing any such team
04:31:56 9 exists, right?
04:31:56 10 A. Well, there might be such documents but maybe you haven't
04:32:01 11 seen them.
04:32:01 12 Q. You haven't either, have you?
04:32:03 13 A. Well, I can't recall. Let's say that. They might exist.
04:32:07 14 Q. All right. So let's look here too and let's talk for a
04:32:11 15 minute about Abioseh Porter.
04:32:11 16 A. Sure.
04:32:13 17 Q. I bring him up because he used to be a department head
04:32:18 18 before you were, right?
04:32:19 19 A. Abioseh Porter --
04:32:21 20 Q. And he's up at number 3 here.
04:32:24 21 A. Yes, he's the top line there.
04:32:24 22 Q. Right.
04:32:25 23 A. So you can see he's worked here at Drexel since 1986, he
04:32:29 24 is a senior member of the department, and he was the department
04:32:32 25 head for something like 14 years. Before he came to Drexel he

04:32:38 1 had a tenure track job at another university that I don't
04:32:43 2 remember where it was, but hired in 1986.

04:32:47 3 Q. You don't know -- you don't know how being a Department
04:32:52 4 Head effects this salary here if at all, do you?

04:32:56 5 A. No, I do not because that was before, well before I came
04:33:00 6 here.

04:33:00 7 Q. Right. And he's got no administrative stipend here for
04:33:03 8 Department Head, right?

04:33:05 9 A. Well, I would say his --

04:33:07 10 Q. It doesn't say that?

04:33:09 11 A. His salary that you see here is a reflection, like I said
04:33:15 12 before, whatever his starting salary is, whatever he was hired
04:33:18 13 at, and then any sort of increases that he got along the way.
04:33:21 14 So if he was given some sort of salary incentive or boost to
04:33:25 15 become the Department Head, then that would be part of what you
04:33:28 16 see here, but I don't know if that's the case.

04:33:31 17 Q. Right. And during this time, again, he's not doing any
04:33:34 18 work as the other Department Head?

04:33:37 19 A. During this time he is not. He is however doing some work
04:33:40 20 as director of the Africana Studies program. I should mention
04:33:44 21 Dr. Abioseh Porter is an expert in African literature. He is a
04:33:46 22 native of Sierra Leone.

04:33:48 23 Q. And we can't disentangle what he gets paid for that from
04:33:54 24 his salary, can we, from this chart?

04:33:56 25 A. Can't disentangle what?

04:34:00 1 Q. The money he gets for being director of Africana Studies?

04:34:04 2 A. What you're seeing here is his base salary.

04:34:08 3 Q. Okay. So there is a stipend or there isn't?

04:34:10 4 A. I don't know.

04:34:11 5 Q. If there were a stipend, wouldn't it be on this chart?

04:34:15 6 A. I would assume so and you got this from somebody else, so.

04:34:19 7 Q. From Drexel.

04:34:21 8 A. Yeah.

04:34:22 9 Q. So it should be there.

04:34:22 10 A. So then --

04:34:24 11 Q. If it isn't there then there isn't a stipend, correct?

04:34:27 12 A. I would assume so.

04:34:29 13 Q. Okay. Assume there is no stipend.

04:34:32 14 All right. And going down here, department head, so

04:34:38 15 you're saying somehow that effects the pay. No women have ever

04:34:45 16 been Department Head, have they?

04:34:47 17 A. That's not correct. In --

04:34:48 18 Q. Who on this chart was a Department Head as a woman?

04:34:53 19 A. No one on this chart other than Abioseh Porter and I have

04:34:56 20 been Department Heads, but in 1980s there was a woman who was

04:35:01 21 Department Head.

04:35:01 22 Q. Who was that?

04:35:02 23 A. Margaret, and I'm sorry, I am blanking on her last name.

04:35:07 24 Q. Do you know if she got paid more for that?

04:35:09 25 A. I don't know. She was a -- we had a woman department head

04:35:12 1 for about, I think she was place for about 10 years.

04:35:16 2 Q. You mentioned longevity is an issue that would effect

04:35:21 3 someone's pay?

04:35:22 4 A. Certainly.

04:35:24 5 Q. Make it higher, right?

04:35:24 6 A. Sorry?

04:35:26 7 Q. It should make it higher, right, the longer somebody has

04:35:28 8 been there?

04:35:28 9 A. It can be one of those factors. So, remember, every year

04:35:32 10 you might get those merit increases, so if you've been here

04:35:37 11 longer, you're going to get more of those over time, correct.

04:35:41 12 Q. All right. Let's look at Andrew Smith on line 6. So

04:35:45 13 Andrew Smith's hire date was September 1, 2010, correct?

04:35:49 14 A. Correct.

04:35:50 15 Q. All right. Now, at that point, Professor Piety had

04:35:55 16 already been working at Drexel, right?

04:35:58 17 A. Yes.

04:35:59 18 Q. In fact at that point Professor Piety had been tenured

04:36:04 19 already for three years?

04:36:05 20 A. Right.

04:36:06 21 Q. Okay. So we can say she has much bigger longevity than

04:36:14 22 Andrew Smith, right?

04:36:15 23 A. She has been here longer than Andrew Smith.

04:36:19 24 Q. Okay. So let's look at the salary through the years of

04:36:22 25 his professor salary. Let's look at associate professor salary

04:36:27 1 for let's take 2021. He's making [REDACTED], right? He is an
04:36:37 2 associate professor, and [REDACTED], that is in line 7 for 2021.
04:36:43 3 Let's go down to Professor Piety, line 30. So take a look
04:36:52 4 at Professor Piety on line 30, what is her salary?
04:36:57 5 A. These are small figures.
04:37:01 6 Q. They sure are.
04:37:03 7 A. [REDACTED]. Yeah, I wish everyone's salaries were higher too.
04:37:08 8 Q. So [REDACTED], and she's already tenured three years before
04:37:14 9 Andrew Smith arrives?
04:37:16 10 A. Right.
04:37:16 11 Q. And Andrew Smith is not tenured when he arrives. Andrew
04:37:23 12 Smith is getting paid just a, fair to say, couple thousand
04:37:30 13 less?
04:37:30 14 A. So at this point --
04:37:31 15 Q. So you said longevity, so Piety, she's been here longer,
04:37:35 16 that means that's why he's been paid. Well, it doesn't look
04:37:38 17 like that here, does it?
04:37:40 18 A. So we are looking at 2021? Were those the numbers --
04:37:40 19 Q. Sure.
04:37:40 20 A. -- you were looking at?
04:37:43 21 Yeah, so in that year, 2021, Dr. Piety would have been the
04:37:46 22 highest paid professor in the Philosophy program. She was also
04:37:50 23 the senior ranking and longest serving member in that program.
04:37:56 24 You will recall that I said the reasons for people's salaries
04:38:01 25 depend on whatever your starting salary is plus any increases

04:38:06 1 along the way, right? And I think the reason I would point to
04:38:10 2 for the difference in salaries here is that when she was hired,
04:38:15 3 she had I believe in 2021, starting salary was \$[REDACTED]. You
04:38:20 4 can see that --

04:38:21 5 Q. She wasn't hired in 2021.

04:38:24 6 A. 2001, I'm sorry. 2001. Here in later, you know, later,
04:38:29 7 and you can see that Andrew Smith, when he started and when he
04:38:32 8 was first hired, well, we don't have a starting salary here but
04:38:37 9 by this point he is in the [REDACTED]s so.

04:38:44 10 Q. High --

04:38:45 11 A. One thing to note, sorry, I would just point out is that
04:38:49 12 these are both -- Andrew Smith, Dr. Andrew Smith is a professor
04:38:51 13 in the Philosophy program, Dr. Piety is a professor in the
04:38:56 14 Philosophy program. They were hired at very different times.
04:38:58 15 So in 2001 when Dr. Piety was hired, we actually weren't even
04:39:03 16 the Department of English and Philosophy at that point, and
04:39:06 17 there was no Philosophy major at that point. Philosophy was a
04:39:10 18 very small and service-oriented aspect of what we do. We were
04:39:17 19 actually called the Department of Humanities and Communication,
04:39:22 20 something like that.

04:39:23 21 We later evolved and split off into real departments if
04:39:28 22 you will, eventually becoming a Department of English and
04:39:31 23 Philosophy. In 2011 is when we started our major in
04:39:36 24 Philosophy. So before 2011 if you were a student at Drexel,
04:39:40 25 you could not major in Philosophy. You could take some

04:39:44 1 philosophy courses, sort of general philosophy courses, but it
04:39:48 2 was in 2011 that we started the major.

04:39:50 3 So this is one of the differences. When Dr. Piety was
04:39:53 4 hired, she was hired as a generalist in this program that was
04:39:57 5 doing these very general kind of courses, so that explains sort
04:40:02 6 of where she started from. Around 2011 when they started this
04:40:09 7 Philosophy program, the dean decided, hey, we need to make some
04:40:13 8 good hires here to beef up this program. We are going to make
04:40:17 9 a real major, going to make a go of it, and so they actually
04:40:19 10 hired 3 people right around the same time. That's Dr. Andrew
04:40:23 11 Smith and two other people on this list, Dr. Flavia Padovani
04:40:28 12 and Dr. Nathan Hanna. They were -- Flavia Padovani and Nathan
04:40:32 13 Hanna are still associate professors. Andrew Smith has gone on
04:40:36 14 to be promoted to full professor, but they were all three hired
04:40:39 15 at that time with the intent of let's make this Philosophy
04:40:42 16 program into something. And they were hired because each of
04:40:45 17 them had certain expertise that Drexel deemed really valuable
04:40:51 18 for building a Philosophy program at a place like Drexel where
04:40:55 19 we have this reputation for being very technology, engineering,
04:41:00 20 science-oriented.

04:41:02 21 Q. All right. So let's write that down. You think it's fine
04:41:06 22 that Smith, who's hired so much later than Piety, is making
04:41:12 23 almost the same as she is and he's lower ranked?

04:41:16 24 A. I didn't say I thought anything was fine on this whole
04:41:20 25 list.

04:41:20 1 Q. Well, why didn't you do anything about it? You're the
04:41:25 2 Department Head, right? You looked into these salary
04:41:27 3 discrepancies.

04:41:27 4 A. I don't control the salaries.

04:41:29 5 Q. You have some say in it, don't you?

04:41:32 6 A. Sorry?

04:41:29 7 Q. You have some say in it.

04:41:32 8 A. I have -- salaries are determined, as I've told you, by
04:41:34 9 whatever the person's starting salary is, which I cannot
04:41:38 10 control, and then any increases that you get over time. That's
04:41:43 11 it.

04:41:44 12 Actually, as Department Heads, we have very little control
04:41:47 13 over what an individual's salary is. We have -- it's pretty
04:41:51 14 standard across the board, like I mentioned, if you get a
04:41:55 15 promotion, you get a 5 percent increase. If you get tenure,
04:41:57 16 you get a 7 percent increase. If you get another promotion,
04:41:59 17 you get another 5 percent increase. That's how it is for
04:42:03 18 everybody across the board.

04:42:05 19 Q. Right. And so at the end of the day, to wrap this part
04:42:07 20 up, longevity isn't really an explanation, is it?

04:42:09 21 A. Oh, it absolutely is.

04:42:12 22 Q. It isn't between Smith and Piety, right?

04:42:15 23 A. Well, because there is another factor, and that's the
04:42:18 24 starting salary.

04:42:19 25 Q. Right. And when you're making starting salaries, are you

04:42:25 1 looking to make sure the resulting starting salary of a man is
04:42:30 2 not being paid more or being paid more than a woman for the
04:42:36 3 same work?

04:42:37 4 A. Well, take a look at those three that I just mentioned,
04:42:41 5 and look right there in 2021, Dr. Smith, male, Dr. Hanna, male,
04:42:48 6 Dr. Padovani, female, all hired about the same time, and Dr.
04:42:54 7 Padovani is actually the higher of the trio.

04:42:58 8 Q. And their salaries are really close to Piety's, right?

04:43:00 9 A. And they are close to each other, and they are below Dr.
04:43:04 10 Piety's.

04:43:04 11 Q. Barely.

04:43:05 12 A. They're below.

04:43:08 13 Q. Right. But not -- you go to Richard Astro and we're up
04:43:13 14 over [REDACTED] more.

04:43:13 15 A. Right.

04:43:13 16 Q. -- we got you, you're significantly more than her?

04:43:16 17 A. Yes.

04:43:16 18 Q. Abioseh Porter is significantly more.

04:43:20 19 And in fact, we look at this list of men -- we won't
04:43:25 20 necessarily go through it right now -- I believe it's something
04:43:27 21 to take back to the jury room with you. They love this chart.

04:43:32 22 This chart, you can look and you can see that all of
04:43:36 23 these men are paid more than the women in the department,
04:43:39 24 aren't they?

04:43:40 25 A. There are women who are paid more than men here.

04:43:44 1 Q. Astro is paid more than anybody?

04:43:46 2 A. Correct.

04:43:49 3 Q. Right?

04:43:49 4 A. Yes.

04:43:49 5 Q. Catudal --

04:43:50 6 A. Unless you're looking at Greenberg still.

04:43:54 7 Q. Right, Greenberg paid more than Piety. Catudal paid more

04:43:56 8 than -- I think he is paid more than any woman on here, wasn't

04:44:01 9 he, at this time?

04:44:02 10 A. Quite possibly, yeah.

04:44:05 11 Q. I mean, he was or he wasn't, right? The jury can look at

04:44:10 12 that back in the jury room certainly.

04:44:12 13 A. Yeah. So, I mean, there are men and women who make more

04:44:16 14 than Dr. Piety, and there are men and women on this list who

04:44:19 15 make less than Dr. Piety.

04:44:21 16 Q. Right. Let's look, just briefly, let's look at the

04:44:26 17 various administrative stipends here since we have got the

04:44:29 18 chart up. Your administrative stipend is [REDACTED], right?

04:44:34 19 A. That's right.

04:44:34 20 Q. And we have another administrative stipend for, let's see,

04:44:40 21 for Scott Warnock, and his is for being the director of the

04:44:46 22 writing center at line 44, \$[REDACTED], right? And then when he's

04:44:54 23 got did the dean's stipend, he's at \$[REDACTED].

04:44:58 24 There are some women on here, stipends correct?

04:45:02 25 A. You want to point me to them?

04:45:05 1 Q. Sure. Why don't we take a look at -- it's hard for me to
04:45:14 2 go through with the alphabetical.

04:45:17 3 A. Okay. Dr. Elizabeth Kimball?

04:45:19 4 Q. Yes. Here she is, director, University Writing Program.

04:45:23 5 A few years after Warnock, some kind of writing director, her
04:45:29 6 stipend is \$[REDACTED].

04:45:29 7 A. Yes.

04:45:30 8 Q. So that's less than the stipends the men get, right?

04:45:36 9 Let me go back up here too. Let's look at Andrew Smith,
04:45:42 10 line 6, and see the stipend he's getting as a Department Head.

04:45:48 11 He's getting [REDACTED] for being a Department Head, but my point
04:45:52 12 is look at all these stipends that people get. The men's are
04:45:57 13 always higher than the women's. Look at Jennifer Yusin. See
04:46:02 14 that? Look at her stipends for being assistant Department
04:46:06 15 Head, [REDACTED]?

04:46:08 16 A. Right. So one of the things -- during my time at Drexel,
04:46:11 17 the stipends for Department Heads have been very stable, and
04:46:14 18 they are the same across the whole college. So all departments
04:46:19 19 head get the same stipend.

04:46:21 20 Stipends for other administrative roles have varied and
04:46:24 21 will become -- they are negotiated individually.

04:46:26 22 Q. So how is it that the stipends for men come up always
04:46:31 23 higher than the stipends for women here?

04:46:33 24 A. Well, they don't. I mean, there are women Department
04:46:36 25 Heads in the College of Arts and Sciences, and they also got

04:46:38 1 that same \$ [REDACTED] --

04:46:41 2 Q. Right. I'm looking at this chart.

04:46:43 3 A. Yeah. Well, I mean, so those are, again, negotiated

04:46:49 4 individually on a case-by-case basis.

04:46:52 5 Q. Right. So who's negotiating them?

04:46:53 6 A. The dean.

04:46:54 7 Q. All right. Is the dean a man?

04:46:56 8 A. During my seven and a half years at Drexel I have had five

04:47:00 9 different deans. Four of them are women and now, currently,

04:47:04 10 there is a man.

04:47:06 11 Q. Okay. But these negotiations, there's nothing governing

04:47:12 12 how you set the salary, right? It's all what you can

04:47:15 13 negotiate, is that right?

04:47:16 14 A. It's always negotiable.

04:47:19 15 Yeah, I mean, and also you have to -- part of this is in

04:47:21 16 the context of Drexel being in a kind of belt-tightening mode,

04:47:26 17 and so one of the first things you do when you're tightening

04:47:30 18 the belt, when the dean says -- well, the dean will hear from

04:47:31 19 the provost, as we did just recently, oh, you need to cut your

04:47:35 20 budget by another million dollars. One of the things he is

04:47:38 21 going to look at is all these administrative stipends. You

04:47:41 22 know, do we still need them, can they can be tightened up a

04:47:46 23 little bit, that sort of thing.

04:47:47 24 And also, the other thing to think about when you --

04:47:47 25 MR. FOLEY: Past --

04:47:51 1 THE COURT: Stop. You cannot talk over each other,
04:47:54 2 because she's not taking down. He asks a question, then you
04:47:56 3 wait, then you answer the question then he asks the next one.

04:48:01 4 THE WITNESS: Got it.

04:48:02 5 MR. FOLEY: Sorry.

04:48:02 6 BY MR. FOLEY:

04:48:02 7 Q. So you said he is going to look at it. Do you think the
04:48:07 8 difference in someone is going to look at the issue of whether
04:48:11 9 to pay these stipends at all?

04:48:14 10 A. Well, every -- I would say every year I hear from the
04:48:24 11 dean's office, you know, we've got to cut some of these things,
04:48:29 12 and of course I'm always arguing, no, please don't cut, we need
04:48:34 13 these things. And sometimes they will listen to me and
04:48:36 14 sometimes they won't.

04:48:37 15 Q. All right. So have you done anything to try -- you have
04:48:47 16 not -- you have not made salaries and stipends in your
04:48:55 17 department such that men and women who are doing the same work
04:49:04 18 are getting paid the same, have you?

04:49:07 19 A. I have not made everybody in the department get the same
04:49:13 20 salary, no.

04:49:15 21 Q. Right, but I asked about men and women.

04:49:17 22 A. Well, you can see everybody in the department has a
04:49:22 23 different salary, and I think there are very obvious and
04:49:27 24 understandable reasons for each one of those.

04:49:30 25 Q. All right. You barely -- we'll go with -- scratch that.

04:49:37 1 A. May I add something?

04:49:37 2 Q. What's that?

04:49:40 3 A. May I add one thing?

04:49:42 4 Q. Sure.

04:49:43 5 A. I do want you to know that in my role as Department Head,

04:49:46 6 I am an advocate for the faculty and for their best interest.

04:49:50 7 And so I am actually always advocating for the maximum amount

04:49:56 8 of money for as many of my faculty as possible that is

04:49:59 9 definitely one of the things that I try to do. And so whether

04:50:02 10 it's talking with the dean about what the merit raises are

04:50:07 11 going to be or talking with the dean about promotions or that

04:50:11 12 sort of thing, whenever possible, I am a strong advocate for

04:50:15 13 every single one of my faculty because I want them to be happy

04:50:20 14 and I want them to stay, frankly. Because one of the things

04:50:23 15 that could happen is if you don't pay someone well enough, they

04:50:28 16 might take a job somewhere else.

04:50:30 17 Q. How realistic is that in today's climate for academia?

04:50:36 18 A. What do you mean?

04:50:36 19 Q. There aren't many jobs out there in English, are there?

04:50:40 20 A. I've had two faculty members that are on this list leave

04:50:43 21 for precisely this reason. They took jobs elsewhere. They got

04:50:49 22 job offers from other places and we tried desperately. I went

04:50:52 23 to the dean, said, look, please help me keep these people. We

04:50:57 24 tried to sweeten the pot as much as possible, but we could not

04:51:01 25 match their offers.

04:51:02 1 Q. All right. Let's -- we need to correct a factual
04:51:06 2 misstatement that Ms. Greenspan in her opening. She said that
04:51:10 3 Dr. Professor Piety has never sought any administrative role,
04:51:15 4 but that's not true, is it?

04:51:17 5 A. Well, I think what Ms. Greenspan said was that she's never
04:51:21 6 sought an administrative role like provost or vice provost or
04:51:25 7 dean. I'm pretty sure that's true. Or even Department Head.
04:51:29 8 I am pretty sure that's true.

04:51:31 9 Q. But she has sought position as Philosophy program
04:51:36 10 director, right?

04:51:37 11 A. So there are administrative roles --

04:51:39 12 Q. Yes or no?

04:51:39 13 A. Yes.

04:51:39 14 Q. So --

04:51:40 15 A. There are --

04:51:40 16 THE COURT: Stop. You have to wait until he's
04:51:43 17 finished. You have to answer his question, not what you want
04:51:45 18 to answer. Right?

04:51:47 19 THE WITNESS: Got it.

04:51:47 20 THE COURT: Okay. Go ahead.

04:51:47 21 BY MR. FOLEY:

04:51:50 22 Q. So the claim that she never sought an administrative
04:51:53 23 position is simply false, isn't it?

04:51:55 24 A. Again, I think you're misunderstanding her statement. I
04:51:59 25 would say that she never sought an administrative role at those

04:52:03 1 levels that Ms. Greenspan was saying. But yes, she did apply
04:52:07 2 to be the director of the Philosophy program, which is an
04:52:12 3 administrative role in my department that I oversee.

04:52:17 4 Q. All right. And do you know if there was some application
04:52:21 5 process for Abioseh Porter to become Department Head?

04:52:25 6 A. When he became Department Head?

04:52:30 7 Q. Uh-huh?

04:52:30 8 A. That was well before my time. I don't know.

04:52:33 9 Q. So he could have just been selected as such, right?

04:52:36 10 A. That's possible. So, deans can appoint Department Heads.
04:52:39 11 That's their job. That's their role, and they can do it in any
04:52:44 12 way that they want to. Normally what happens is the dean will
04:52:46 13 decide if there is an opening for a Department Head, whether he
04:52:51 14 will do -- usually they'll do sort of a search or an opening
04:52:55 15 and invite people to apply for that job. They might decide to
04:52:59 16 do an internal search and say, okay, say you're the Philosophy
04:53:02 17 program or the history department or whatever, pick who you
04:53:06 18 want -- recommend someone to be your Department Head and let's
04:53:10 19 see.

04:53:10 20 So that would be one way to do it. Another way is to say
04:53:14 21 I want to look more broadly and do a whole national search, in
04:53:19 22 which case it's open to the whole universe.

04:53:19 23 Q. So you said who would ask whom to recommend someone to be
04:53:23 24 a Department Head?

04:53:24 25 A. The dean is in charge of that process.

04:53:27 1 Q. So it's not that people are just always applying to be
04:53:32 2 Department Head, right?
04:53:33 3 A. No. That's correct.
04:53:34 4 Q. And Catudal worked in the provost office. Do you know if
04:53:39 5 he went through some kind of application process or if he was
04:53:43 6 just selected?
04:53:44 7 A. It's possible. I don't know.
04:53:46 8 THE COURT: Is this a good time for you to stop?
04:53:49 9 MR. FOLEY: I think so, Your Honor.
04:53:50 10 ***END OF DAY***.
04:53:50 11 THE COURT: Thank you. It's 5 o'clock. I want to let
04:53:52 12 the jury go home.
04:53:52 13 MR. FOLEY: Thank you.
04:53:54 14 THE COURT: Mr. Kurtz, you can leave the stand. When
04:53:57 15 you return tomorrow, you remain under oath.
04:54:02 16 THE WITNESS: Thank you.
04:54:06 17 THE COURT: Members of the jury, we are about to take
04:54:07 18 our first recess and I remind you of the instructions gave you
04:54:12 19 earlier. During this recess and any other recess, you must not
04:54:14 20 discuss the case with anyone including your fellow jurors,
04:54:17 21 members of your family, people involved in the trial or anyone
04:54:20 22 else. If anyone tries to talk to you about the case, do not
04:54:23 23 talk to them and immediately tell Mr. Malave so that I can deal
04:54:28 24 with it.
04:54:29 25 Don't read anything about the trial, any news reports.

04:54:32 1 Don't conduct any research in any way whatsoever, and keep an
04:54:37 2 open mind until all the evidence has been received and you have
04:54:41 3 heard the views of your fellow jurors.

04:54:42 4 Obviously you're going to have to tell your employers
04:54:44 5 that you are on this trial. You can tell them that. Tell
04:54:47 6 them, however, that Judge Beetlestone says that you can say
04:54:50 7 that it is a civil trial, that it is likely to end before
04:54:52 8 Friday but you cannot tell them anything else.

04:54:55 9 And the I will see you tomorrow. We will start at
04:54:57 10 9:00. Thank you.

04:54:57 11 (Jury Exits.)

04:55:29 12 THE COURT: Have a seat.

04:55:30 13 Okay. So, Mr. Foley, how long do you think we are
04:55:35 14 going to have on Professor Kurtz tomorrow?

04:55:40 15 MR. FOLEY: Probably, I will try to keep it to
04:55:44 16 30 minutes, Your Honor.

04:55:45 17 THE COURT: Okay. And you've got some cross, correct?

04:55:48 18 MS. GREENSPAN: Yes, Your Honor.

04:55:49 19 THE COURT: And then we will see whether there is any
04:55:51 20 redirect.

04:55:52 21 Who else do you have tomorrow?

04:55:54 22 MR. FOLEY: Your Honor, I think that's it for now.

04:55:59 23 THE COURT: Okay. So then we will be turning to
04:56:01 24 defense case. Who have you got?

04:56:03 25 MS. GREENSPAN: Your Honor, for our case we are

04:56:05 1 calling Dr. Kurtz on direct. We are calling Keyanah Jones on
04:56:11 2 direct from human resources, and we are calling Dr. Paul
04:56:15 3 Jensen, provost, on direct.

04:56:18 4 I believe that's it, Your Honor. I will double-check
04:56:20 5 my notes but I believe that's it.

04:56:22 6 THE COURT: And how long do we think they are going to
04:56:25 7 go?

04:56:25 8 MS. GREENSPAN: I would think less than the day.

04:56:27 9 THE COURT: Okay. So there is a remote possibility
04:56:30 10 that we will finish testimony tomorrow, right?

04:56:33 11 MS. GREENSPAN: Yes.

04:56:33 12 THE COURT: So I think what you need to do is to make
04:56:36 13 sure the -- and if we finish around 4:00, I will just let the
04:56:41 14 jury go. Even if we finish before that, we are going to do the
04:56:47 15 charging conference. So I think you both need to look at that
04:56:51 16 final, those final jury instructions and work out any
04:56:56 17 difficulty, any differences you may have.

04:56:57 18 Remember, I told you that what you're going to do is
04:57:00 19 you're going to look at it. Anything that I have provided to
04:57:03 20 you, which the basic model jury instructions, you're going to
04:57:06 21 read those. If it is anything specific that pertains to this
04:57:10 22 case, you're going to see where you differ and you will try and
04:57:14 23 work out those differences. So what you should give me is the
04:57:17 24 final document, which is everything as you have agreed or that
04:57:20 25 I have included, and if there is a difference, you show

1 plaintiff's in italics and defendant's in, I think it's
2 underline, so that I know exactly where the issue is. And the
3 sooner you can get me that document, the sooner I can evaluate
4 and the differences and we will have a much more fruitful
5 charging conference.

6 Okay. Anything else?

7 MS. GREENSPAN: No, Your Honor.

8 MR. FOLEY: No, Your Honor.

9 THE COURT: Okay. Thank you. See you tomorrow.

10 Again, if you need to talk to me earlier than the 9 o'clock
11 start, text Alex and he will tell me.

12 C E R T I F I C A T E

13

14 I certify that the foregoing is a correct transcript
15 from the record of proceedings in the above-entitled matter.

16

17

18 /s/ Kim L. Haley, CSR, CRR, RPR
19 1/31/2025

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